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MOVING TOWARD NEUTRALITY: THE ESTABLISHMENT CLAUSE AND AMERICA'S HISTORIC RELIGIOUS PLACES

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A THESIS in Historic Preservation Presented to the Faculties of the University of Pennsylvania in Partial Fulfillment of the Requirements of the Degree of MASTER OF SCIENCE IN HISTORIC PRESERVATION 2009

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MOVING TOWARD NEUTRALITY: THE ESTABLISHMENT CLAUSE AND AMERICA'S HISTORIC RELIGIOUS PLACES

Abstract

The Establishment Clause of the First Amendment prevents the government from establishing or directly aiding religion. Over the past thirty years, the opinion of the Supreme Court has shifted from a policy of strict separation between church and state to a position of neutrality. Under this policy, one religion is not favored over another and no distinction is made between religious and non-religious groups in secular issues involving aid unspecific to religious worship. This move toward neutrality has directly affected the eligibility of historic active religious places to receive federal funding for historic preservation and conservation. The Supreme Court has ruled that the religious activity of an institution cannot be assumed to be inextricably tied to its secular activity; that connection must be proved. While this reasoning lends itself to educational challenges, it leaves many questions for historic preservation grants, in which it is more difficult to discern the religious from the secular. Can a building be separated from its use? What if the use is divided between the religious and the secular? The site management of these historic religious properties shows a growing trend toward the professionalizing of secular non-profit organizations to navigate these questions and provide a clear public benefit.

Comments

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Caitlin Kramer

A THESIS

in

Historic Preservation

Presented to the Faculties of the University of Pennsylvania in Partial
Fulfillment of the Requirements of the Degree of

MASTER OF SCIENCE IN HISTORIC PRESERVATION

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To Sean and my family

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CHAPTER 1: INTRODUCTION

The Establishment Clause of the First Amendment prevents the government from establishing or directly aiding religion. Over the past thirty years, the opinion of the Supreme Court has shifted from a policy of strict separation between church and state to a position of neutrality. Under this policy, one religion is not favored over another and no distinction is made between religious and non-religious groups in secular issues involving aid unspecific to religious worship. This move toward neutrality has directly affected the eligibility of historic active religious places to receive federal funding for historic preservation and conservation.

At issue is whether federally funded historic preservation grants are in violation of the separation of church and state required by the Establishment Clause. Historically, federal funding for such grants has been prohibited on the basis of separationist interpretation by the courts. Only since 2003 has the U.S. Justice Department ruled that these historic religious places are eligible for this type of preservation funding. The Supreme Court has found that an institution's "pervasively sectarian" nature, that is, whether the religious activity is inextricably tied to the secular, cannot be assumed and must be proved. Supporters of this move toward neutrality believe that religious places should be eligible because of their importance in American history and secular public benefit. Opponents argue that preservation grants have the potential, like religiously affiliated schools, to "excessively entangle" the government in religious worship. Any funding that supports the physical building,

thereby allows for religious service. Opponents argue that taxpayer money should therefore not fund this aid of religious worship.

This thesis explores the recent legal history of federal funding for historic religious properties, focusing on grant recipients of the Save America's Treasures program (SAT), administered by the National Park Service (NPS). A literature review of the legal history is discussed in the second chapter. As most grants are awarded to the non-profit organizations affiliated with these historic religious properties, three case studies have been completed to show how a balance can be achieved (and managed) not only between history and religion, but also between the interests of the American public and an active congregation. The subjects of these case studies are Old North Church in Boston; Eldridge Street Synagogue in New York City; and Christ Church in Philadelphia.

One of the conditions of the SAT grant is that the property displays a "clear public benefit." When evaluating the neutral application of this requirement to determine constitutionality, the Office of the Legal Counsel (OLC) of the United States Department of Justice finds qualification to be "quite subjective at first glance."¹ However, upon closer examination, the OLC's determination whether an application qualifies is based upon an analysis as follows:

¹ U.S. Department of Justice, Office of Legal Counsel, Memorandum Opinion for the Solicitor, Department of the Interior. *Authority of the Department of the Interior to Provide Historic Preservation Grants to Historic Religious Properties such as the Old North Church*. 30 April 2003. 88. Accessed 17 July 2008. Available at <http://www.usdoj.gov/olc/OldNorthChurch.htm>.

“public will benefit from a project is not based on an assessment of the public value of the *religious* activities or character of the church, or for that matter of any of its *current* activities; it is based on the public value of being able to view, and learn from, the building and its place in our nation's history--on its accessibility to ordinary Americans. The conclusion that viewing the structure would be beneficial to the public derives from the structure's historical value, not its religious value. That is a valid, neutral basis for funding a project.”²

The public value requirement of the SAT program is indicative of a shift in the preservation profession away from focusing only on arresting physical decay to an emphasis on values that extend beyond the traditional aesthetic and historical significance of a place. Values-based management offers a framework for evaluating the significance of a site holistically, looking at both contemporary and historic values.³ These contemporary values encompass economic, social, and ecological concerns (amongst many others) and are articulated by the stakeholders of a site, who are invested in and connected to a place. The gathering and prioritization of these values crafts a statement of significance, which argues why a place should be preserved and serves as a strategic vision for preservation planning.

While what public value is changes at each historic site, always present is the idea of interpretation, that is, the human interaction with the physical fabric that

² Ibid. 88.

³ Mason, Randall. “Theoretical and Practical Arguments for Values-Centered Preservation.” *CRM: The Journal of Heritage Stewardship*. Volume 3, Number 2, Summer 2006. 21. Accessed 17 April 2009. Available at http://crmjournal.cr.nps.gov/02_viewpoint_sub.cfm?issue=Volume%203%20Number%202%20Summer%202006&page=1&seq=2

elicits memory, emotion, and intellectual curiosity. This social component shows a move in policy away from an inward looking curatorial preservation impulse to toward an outward looking urbanistic impulse.⁴ The curatorial impulse is focused on the professional preservationist seeking to obtain technical excellence in the conservation of physical fabric. The urbanistic impulse, called for in the SAT grant, looks to connect preservation with other disciplines, including planning and education, to address larger social issues. Addressing public value requires looking beyond technical conservation to the impact of preservation.

The inclusion of contemporary values does not result in the dismissal of traditional aesthetic and historic values. The conservation of physical fabric is of primary importance to the field of preservation. The “pragmatic/technical” and “strategic/political” methods of preservation, while seemingly at odds, can work together.⁵ Strategies that combine this technical emphasis with other values and the involvement of stakeholder communities provide the most holistic and best strategy for the preservation of a place. Preservation does not exist in a vacuum. Politics and economics are very much a part of the world in which preservation operates; acknowledging their presence provides opportunities to develop policies and tools that work for preservation.

The movement to secure federal funding for historic preservation grants to religious properties is one example of how working within politics benefits

⁴ Ibid, 25.

⁵ Ibid, 28.

preservation goals. The OLC evaluated this issue based on principles of fairness and neutrality. Yes, these historic places have religious value, but it is not being evaluated or directly supported by the government. In values-based management, each value is not given equal weight and priority. It simply is not possible to evaluate all values equally and create an effective site management plan; some values must be prioritized over others. Similarly, all values are not relevant to all stakeholder groups. For a congregant, historic religious properties places have religious value. For a fourth grade history student, the place where Paul Revere ordered the hanging of the lanterns at the beginning of the Revolutionary War has historic value. The secular non-profits that operate these places focus not on the religious value, but on the secular, public values.

Just as all values cannot be considered equal, they are also not fixed. As the populations that perform interpretation change, so do the associated values. While the religious places studied in this thesis are active religious sites, it can be argued that their primary role is as historic sites. The public is a much larger stakeholder group than the congregations, which are often small. At some sites, religious services are hold only once a week or on religious holidays. The historic significance of these places should not be penalized for having what is viewed by some as a competing religious value. At each site, there are separate historic and religious vehicles for the management of values important to their respective stakeholder groups. Secular non-profits should be eligible for federal funding for historic preservation grants because their primary values are historic and aesthetic, not

religious. The projects and activities to which the federal funding is distributed reflect those secular values.

Australia's Burra Charter, crafted to serve as a framework for values based planning, defines four values in its discussion of cultural significance: historic, aesthetic, social, and scientific.⁶ The three case studies discussed in this thesis all have a multitude of values, but I would argue that each emphasizes one of the Burra Charter values over the others. Old North Church places primary importance on the historic, namely the "One if By Land, Two if By Sea" events that took place on the site on April 18, 1775. Eldridge Street Synagogue focuses on its aesthetics, not only on the beauty of its architecture but also on interpreting its twenty-year restoration for the public. Christ Church is currently working to rehabilitate its adjacent Neighborhood House building to better serve the Old City community in which it resides. History, aesthetic, and community (social) values are present at each site, but the current emphasis on one value guides both interpretation and preservation planning, thereby creating a public value specific to each place. As each site continues to interact with the public and its environment over time, these values will change in scope and importance.

While the historic and aesthetic values of a religious place may be evident, its social value may be less so. University of Pennsylvania Professor and Director of the Program for Religion and Social Policy Research Ram A. Cnaan studies how many

⁶ Australia ICOMOS. "Burra Charter." 1999. Accessed 17 April 2009. Available at <http://www.icomos.org/australia/burra.html>

social services come not from government but from local religious communities. He explains that it is often overlooked how groups that invest in community buildings typically stay in that community and contribute to its growth. Cnaan writes, “The more a religious community invests in its surrounding community, the more it is anchored in it.”⁷ Historic religious places provide needed space for community groups in urban areas. Religious properties either directly provide or offer space for child-care services, youth sports, community theatre, soup kitchens, anonymous group meetings, musical performances, and many other neighborhood events and activities.

The Save America’s Treasures, founded in 1998, evaluates applicants mainly on their historic and aesthetic values, while requiring a public benefit that is undefined. The program provides matching grants for “enduring symbols of American tradition that define us as a nation.”⁸ Funding is provided through the Historic Preservation Fund.⁹ Approximately 70% of grants in a given year are awarded for the preservation of historic structures and sites and 30% are awarded for museum and archival collections. Grants typically range from \$50,000 to \$500,000 for historic sites. Past recipients include Frank Lloyd Wright’s Taliesin, the Star Spangled Banner at the Smithsonian, Thomas Jefferson’s papers at the

⁷ Cnaan, Ram A. *The Other Philadelphia Story: How Local Congregations Support Quality of Life in America*. Philadelphia: University of Pennsylvania Press (2006). 104.

⁸ “Save America’s Treasures.” Accessed 20 June 2008. Available at <http://www.saveameericastreasures.org/about.htm>.

⁹ For further information on the Historic Preservation Fund and how money is appropriated, see Section 108 of the National Historic Preservation Act (1966), available at <http://www.achp.gov/docs/nhpa%202008-final.pdf>

Massachusetts Historical Society, and the cliff dwellings at Mesa Verde National Park.

Four types of entities are eligible to apply for grants: federal agencies that receive funding under Department of the Interior Appropriations legislation; units of state and local government; federally recognized Native American tribes; and organizations that are tax-exempt under 501(c)3 of the Internal Revenue Code.¹⁰ Grant recipients must demonstrate that the property is endangered, threatened, or has an urgent preservation/conservation need. These properties must also show a clear public benefit, as expressed through educational and/or interpretive programs. Grantees must accept a 50-year easement on the property.

National Historic Landmarks and properties listed on the National Register of Historic Places (or are eligible to become so) that are also religious places with active congregations have only been able to receive Save America's Treasure grants since 2003. The National Historic Preservation Act extends to grants "for the preservation, stabilization, restoration, or rehabilitation of religious properties listed in the National Register of Historic Places, provided that the purpose of the grant is secular, does not

¹⁰ United States. Department of Justice, Office of Legal Counsel. "Authority of the Department of the Interior to Provide Historic Preservation Grants to Historic Religious Properties such as the Old North Church. 30 April 2003. 72. Accessed 14 July 2008. Available at <http://www.usdoj.gov/olc/OldNorthChurch.htm>.

promote religion, and seeks to protect those qualities that are historically significant.”¹¹

Accordingly, the Old North Church in Boston, of Paul Revere’s “One if By Land, Two if By Sea” fame, received a 2002 grant from the Save America’s Treasure program. However, the NPS quickly reversed its decision, relying on a 1995 opinion of the OLC. That opinion advised that a reviewing court, applying the then current Establishment Clause precedent of Separationism, would likely invalidate the grant. Old North Church, with assistance from the National Trust for Historic Preservation, appealed to the OLC in 2003, who reversed the 1995 opinion in accordance with more recent policies of neutrality. In this 2003 opinion, brick and mortar grants to historic active congregations are deemed constitutional. There exists a clear divide between the worlds of secular public history and religious worship and the grant process is rigidly controlled and audited to ensure this division. Since this opinion became the established precedent in 2003, approximately thirty active religious properties have been awarded Save America’s Treasures grants.

While there have been papers on the constitutionality of providing federally supported historic preservation grants to active religious properties, to the author’s knowledge, there has not been documentation of the successful campaign lead by the Old North Foundation and the legal department of the National Trust for Historic

¹¹ National Historic Preservation Act of 1966, as amended through 1992. 101(e)4. Pub. L. No. 102-575. Accessed 12 July 2008. Available at <http://www.nps.gov/history/local-law/nhpa1966.htm>.

Preservation to reverse the 1995 OLC opinion in 2003. Further, the secular, public benefits of SAT grant recipients remain unstudied.

As the Court has moved toward a policy of neutrality, the OLC has recognized that religious places are as historically significant to the same degree as secular historic places, such as Independence Hall or the Washington Memorial. Just because history occurred at a religious place, it should not be excluded from receiving government protections in regard to preservation. Properties receiving SAT grants include Touro Synagogue, America's oldest synagogue in Newport, Rhode Island; Christ Church in Philadelphia, a site of congregation for leaders during the Revolutionary era; and Sixteenth Street Baptist Church, a place that witnessed the sermons of Martin Luther King, Jr. and a racially motivated bombing during the Civil Rights Movement. These places are imperative to the story of America and many are endangered. If the building fabric is lost, so too, is the story.

Groups that support funding for historic religious properties have met resistance from the Americans United for Separation of Church and State, who believe that historic preservation is equivalent to "excessive entanglement," in which the government is involved in issues outside of its domain. They argue that if federal funding helps support the bricks and mortar of a religious place, the congregations' own funds are then made available for religious worship. While the 2003 OLC opinion does not specifically address these concerns, it does state that the Court no longer makes presumptions of religious indoctrination and now requires proof of "actual

diversion of public support to religious uses.”¹² As the federal funding may only be used for bricks and mortar, and is carefully regulated to that effect, the OLC determined the Old North Church grant to be constitutionally sound.

Federal funding for historic preservation grants to religious properties should continue because they hold a clear public benefit in the form of historic, aesthetic, and social values that are accessible to multiple stakeholder groups. The criteria on which SAT grant applicants are evaluated are neutral; religious affiliation is not considered at any point in the application process. In fact, the presence of religious value makes site management at these historic properties more difficult than at secular sites, as there are multiple stakeholders who hold different, and often conflicting, values. Religious and non-profit leaders must work together to balance these different values. The leadership at each of the sites discussed in this thesis is committed to respecting both the religious and secular administrations. However, conflicts do occur, and there needs to be a system in place to resolve site management problems. As these religious sites have formed secular non-profits they have professionalized, creating systems of conflict resolution that separate the historic and aesthetic from the religious. When a SAT grant is awarded to the secular non-profit, it is administered and used in a manner specific to its secular purpose. This trend toward professionalization should be encouraged to continue as it provides further assurance that federal money is used only for secular purposes.

¹² Ibid, 80.

As there is no Supreme Court precedent directly addressing this issue (as yet), a move toward neutrality could move back to separationism in the future. President Bush signed the 2004 California Missions Preservation Act for the preservation of the Spanish colonial missions. Americans for the Separation of Church and State sued the federal government, citing separation of church and state, and no money has been appropriated to date.

The recent change in federal public policy to allow for historic preservation grants to religious properties is important. The cultural significance of these places, derived from secular values, is a public benefit. The government is not endorsing religion by preserving historic, aesthetic, and social values. It is discriminatory to not allow historic religious properties to apply for the same preservation funding as secular historic sites. The safeguards required by the SAT grant to prevent diversion of funds and the professionalization of the non-profits that manage the grants assure that the funding is used for the defined secular projects and activities. Understanding these arguments is important not only to the documentation and interpretation of the legal history of federal funding for active historic religious places, but also for an understanding of how historic sites are managed in the United States. Further, an analysis of how the professionalization of educational programming by non-profits supports public benefit will contribute to the growing scholarship that exists at the intersection of non-profit administration and historic preservation.

CHAPTER 2: REVIEW OF LEGAL LITERATURE

Walter Dellinger's 1995 OLC opinion explains that active religious places are ineligible for federal funding under the theory that direct financial support is inconsistent with the Establishment Clause. As there is no Supreme Court case that directly considers the constitutionality of federal funding for historic religious places, the opinion is based on a series of 1970's court cases involving construction and repair grants for religious schools and colleges. The opinion focuses on a two-part rule:

- i) Though the government may include religious institutions that are not pervasively sectarian in neutral programs providing financial assistance, it must ensure that government grants are not used to fund 'specifically religious activity' and are instead channeled exclusively to secular functions.¹³
- ii) "With or without restrictions, the government may not provide monetary aid directly to 'pervasively sectarian' institutions, defined as institutions in which 'religion is so pervasive that a substantial portion of (their) functions are subsumed in the religious mission.'¹⁴

¹³ Dellinger, Walter. Memorandum for John D. Leshy, Solicitor, United States Department of the Interior. *Re: Historic Preservation Grants to Religious Properties*. U.S. Department of Justice, Office of Legal Counsel. 31 October 1995. 1. Accessed 12 July 2008. Available at <http://www.usdoj.gov/olc/doi.24.htm>.

¹⁴ *Ibid*, 4.

In this first part, Dellinger cites *Tilton v. Richardson*, 403 U.S. 672, 675 (1971),¹⁵ in which the citizens and taxpayers of Connecticut brought suit against the administrator of The Higher Education Facilities Act (1963). The Act authorized federal grants and loans to colleges and universities for the construction of academic facilities to meet a rising demand for higher education. Under this Act, no part of funds could be used for religious indoctrination or worship. The government is entitled to recovery of all funds in the event that any statutory condition is violated.

In question was whether financing for secular buildings at religiously affiliated schools violated the Establishment and Freedom of Religious Expression Clauses of the First Amendment, and in effect, a statutory condition of the grant. Additionally named defendants included four religiously affiliated colleges and universities in Connecticut who had received funding under the Act. The grants for these schools financed two libraries, a language laboratory, a science building, and a music and arts building. Appellants attempted to create a “composite profile” of these colleges and universities as institutions that demanded obedience to faith and attendance at religious activities.¹⁶ The Court ruled that all religiously affiliated colleges and universities cannot be assumed to be confined to such a profile, as many uphold higher education as their primary mission and do not prescribe to the aforementioned practices. Similarly, no assumption can be made that secular

¹⁵ *Tilton v. Richardson*, 403 U.S. 672, 675

¹⁶ *Tilton v. Richardson* at 682.

education and religious affiliation are inseparable. None of the federally supported buildings had a religious use or displayed religious iconography.

In a 5-4 decision, the Court upheld the Act, except for a portion that limited the federal interest of a building to 20 years. Under this clause, after that initial period of time, a building could be adapted for religious purposes and the original grant would thereby be a violation of the Establishment Clause, “as the unrestricted use of valuable property after 20 years is in effect a contribution to a religious body.”¹⁷ The useful life of a building cannot be assumed to be twenty years, thereby, the grant is indefinitely tied to use.

The Supreme Court also questioned whether the Act encouraged excessive government entanglement or encroached on the free exercise of religion. The Court found in *Lemon v. Kurtzman*, 403 U.S. 602 (1971), that excessive entanglement did occur when state aid was provided to parochial elementary and secondary schools.¹⁸ In this case, colleges and universities do not share the same sectarian characteristics as parochial elementary and secondary schools. The former do not attempt to persuade students to join a specific religion. Further, college students were determined to be less impressionable than school age children and were exposed to far less activities that could lead to religious indoctrination. Students are not required to attend religious service, and while all defendants have association with the Roman Catholic religion, offered opportunities for study of varied faiths.

¹⁷ *Tilton v. Richardson* at 683.

¹⁸ *Tilton v. Richardson* at 685.

The Supreme Court also found that the mission of the universities was a secular education and the federal grants supported neutral buildings used for the purposes of that education. The grants are “one-time, single-purpose construction grants...There are no continuing financial relationships or dependencies, no annual audits, and no government analysis of an institution’s expenditures on secular, as distinguished from religious, activities.”¹⁹ Such a program limits the relationship between the government and grantee and weakens the argument for excessive entanglement. Violation of the Free Exercise Clause was rejected, as appellants could not support the claim that tax dollars financed any activity related to religious practice.

Lemon v. Kurtzman, decided the same day as *Tilton v. Richardson*, created a test to determine constitutionality under the Establishment Clause. For a statute to be consistent with the Establishment Clause, it must have a secular purpose, must have a primary effect that neither materially inhibits nor advances religion, must not excessively entangle religion and governmental institutions.²⁰

Throughout its use, the test has been applied inconsistently, thus calling into question its effectiveness.²¹ Modified by *Agostini v. Felton*, 521 U.S. 203 (1997), the *Lemon* test now prompts courts to consider whether the government has a secular

¹⁹ *Tilton v. Richardson* at 688.

²⁰ 403 U.S. 203 (1997).

²¹ For further information on the *Lemon* Test, see Christen Sproule, *Federal Funding for the Preservation of Religious Historic Places: Old North Church and the New Establishment Clause*. 3 *Geo. J.L. & Pub. Pol’y* 151 (2005). 166.

purpose and whether the aid has the effect of advancing or inhibiting religion.²² Further, there are now three “primary criteria” are used in the effects test: whether the aid results in governmental indoctrination, whether the aid program defines its recipients by reference to religion, and whether the aid creates an excessive entanglement between government and religion.²³

Dellinger also refers to *Committee For Public Education v. Nyquist*, 413 U.S. 756 (1973), in which maintenance and repair grants for religious schools were invalidated due to a lack of restrictions separating the federal funds to uses that could be tied to religious support, such as the funding of employee’s salaries who maintain the school chapel or the renovation of a classroom used for religious instruction.²⁴ Dellinger writes that it is important that “the prohibition on public funding of facilities used for religious activity applies even where the government’s purpose in funding those facilities is concededly secular and ‘entirely appropriate for governmental action.’”²⁵

As for the second part, involving the restriction of government aid to “pervasively sectarian” institutions, Dellinger writes that though these entities are not well defined, it can be assumed that houses of worship do qualify and interpreting them in any other way might seem both disrespectful and without use of common

²² *Agostini v. Felton*, 521 U.S. 203 (1997) at 231.

²³ *Id.* at 234

²⁴ Dellinger, *Memorandum*. 2.

²⁵ *Ibid.* 2.

sense. Dellinger writes that federal funding to pervasively sectarian organizations is not permissible because the secular cannot be separated and removed from the religious. Even if use could be theoretically distinguished, the necessary regulation that would accompany such federal grants would prove too great a risk for government entanglement. It is for this reason that Dellinger rejects the legality of historic preservation grants for structural elements (such as roofs and exteriors) of houses of worship. While a roof is inherently secular, its role in the religious worship of an active religious place cannot be denied. Further, government's role in attempting to discern what is and what is not sectarian could potentially lead to excessive entanglement by requiring government to involve itself in religious doctrine.²⁶

Dellinger also summarizes the DOJ's understanding of the Save America's Treasures program. Organizations are eligible for federally funded historic preservation grants if the property they represent is listed on the National Register. In addition to fulfilling the standards of the National Register, a religious property qualifies if its significance results from artistic, architectural, or historical distinction. National Register status is the minimum requirement for being awarded a grant; states make their own determination regarding an applicant's credentials.²⁷

Dellinger emphasizes that although courts have upheld some benefits to religious groups, in all of those cases the benefits in question are widely available

²⁶ Ibid, 2.

²⁷ Ibid, 1.

and are religion-neutral. Historic preservation grants are not generally available, but eligibility extends only to institutions that represent places that are evaluated to be historically and artistically significant. Once determined to be eligible for the National Register, these properties must meet the state-defined criteria. Dellinger believes the inclusion of religious properties in a competitive grant program of this nature may lead to government judgment of sectarian activity.²⁸

In *Historic Preservation Grants to Houses of Worship: A Case Study in the Survival of Separationism* (2002), George Washington University Law Professors Ira C. Lupu and Robert W. Tuttle discuss the potential legality of federal funding for the preservation of historic religious places, which in 2002 was still ruled to be in conflict with Establishment Clause interpretation.²⁹ Lupu and Tuttle address this question in four parts. Part I is a summary of the legal history of American Separationism, with a focus on those cases that relate to the physical buildings of religious organizations. Part II discusses the rise of Neutrality and the apparent decline of separationism. The paper most heavily focuses on Part III, which addresses the relationship between Establishment law and historic preservation. These sections, broken up into Parts A, B, and C, focus on the case law that considers the preservation of religious buildings and the then current policies and programs of the federal government toward the

²⁸ Ibid, 6.

²⁹ Lupu, Ira C. and Robert W. Tuttle. "Historic Preservation Grants to Houses of Worship: A Case Study in the Survival of Separationism." Public Law and Legal Theory Working Paper No. 39 2002. Boston College Law Review. Vol. 43. No. 5 (2002).

financial support of such structures. Part IV draws conclusions from the previous three sections.

The legacy of American separationism began with James Madison's 1784 Memorial and Remonstrance Against Religious Assessments.³⁰ Lupu and Tuttle write that "its publication in 1784, and its success in turning the political tide in Virginia just three years before the Philadelphia Convention from which the new federal Constitution was to emerge, marked a tectonic shift in the structure of argumentation in America on state support for religion."³¹ The statement targeted a religious assessment bill that would have appropriated funds for Virginian Christian groups. If passed, a requirement would have existed to spend these funds on religious instruction or for the support of places of worship. With Madison's support, the Virginia Assesmbly defeated the proposal and passed Jefferson's Bill for Religious Liberty, which argued that civil rights have no dependence on religious opinion.

The Supreme Court did not interpret the role of religious structures within the separation of church for another one hundred years. In 1899, the Court decided in *Bradfield v. Roberts*, 175 U.S. 291 (1899), that a hospital building owned by the Catholic Church was eligible to receive federal funding, in that the secular purpose of

³⁰ James Madison, *The Writings of James Madison*, comprising his Public Papers and his Private Correspondence, including his numerous letters and documents now for the first time printed, ed. Gaillard Hunt (New York: G.P. Putnam's Sons, 1900). Vol. 2. Chapter: MEMORIAL AND REMONSTRANCE AGAINST RELIGIOUS ASSESSMENTS. 1. Accessed from <http://oll.libertyfund.org/title/1934/118557> on 2009-01-27

³¹ Lupu and Tuttle, 4.

the hospital to provide medical care was not considered to be supportive of religion.³²

Lupu and Tuttle continue to summarize *Tilton* and *Nyquist*, commenting that *Nyquist* “stands as the singular and unchallenged Supreme Court precedent on the issue of state support for structures whose uses include worship or religious instruction.”³³ The *Nyquist* ruling looks back to *Tilton*’s decision regarding the federally supported buildings of religious colleges. The Court concludes that if the federal government cannot fund the construction of buildings where religious activities take place, it “may not maintain such buildings or renovate them when they fall into disrepair.”³⁴

Under Separationism, as highlighted by the 1995 OLC Opinion, federal funding for historic religious places is in conflict with the Constitution. Lupu and Tuttle question whether this move toward neutrality is enough to reverse the 1995 opinion. Even though the OLC did reverse their position in 2003, this analysis is still relevant, as there is nothing stopping separationism from becoming the dominant Constitutional interpretation in the future. There are three components that have resulted in a move toward neutrality. In the first, “the Supreme Court has been vigorously enforcing rights of equal access to various public fora for religious causes

³² *Ibid.* 4.

³³ *Ibid.* 8.

³⁴ *Nyquist* at 774.

and speakers.”³⁵ Lupu and Tuttle cite *Widmar v. Vincent*, 454 U.S. 263. (1981), and *Good News Club v. Milford Central School*, 121 S. Ct. 2093 (2001), both of which ruled that religious speech cannot be restricted or excluded from a public forum. These cases resulted from an over interpretation of the School Prayer cases by education officials, who extended decisions involving the legality of school sponsored prayer to private speech in a public forum.³⁶

The second part comes from *Employment Division v. Smith*, 494 U.S. 872. (1990), in that “courts should no longer apply the compelling interest test to claims of exemption, based upon the Free Exercise Clause, from religion-neutral, general laws.”³⁷ In this case, Alfred Smith and Galen Black were fired from their jobs in a drug rehabilitation clinic in Oregon for ingesting peyote, which was illegal. However, both men consumed peyote as an exercise that was part of a religious ceremony in the Native American Church, to which both belonged. When the men attempted to claim unemployment compensation and were denied for work-related misconduct, they filed suit for infringement on their right to freely exercise their religion. The majority opinion of the Supreme Court found that religion could not be used as a compelling reason to exclude someone from the law.

Previous to this case, and under a separationist interpretation, “claims that general legal norms burdened religiously motivated choices triggered an inquiry that

³⁵ Lupu and Tuttle, 9.

³⁶ Ibid. 10.

³⁷ Ibid, 11.

was not similarly triggered by burdens on choices motivated by nonreligious reasons.”³⁸ The citation of the free exercise of religion was no longer sufficient for a person not to comply with a law applied generally to the broader population. In this respect, religion is treated as a neutral interest. The *Smith* case lends itself to whether or not religious buildings should or should not have to comply with historic preservation laws, but does not comment on federally funded preservation grants to the organizations that own and manage such buildings.³⁹

Lupu and Tuttleman assert that the most relevant advancement in the move toward neutrality was the rejection that “all assistance to ‘pervasively sectarian’ institutions was constitutionally forbidden.”⁴⁰ The two major cases that supported this ruling were *Agostini v. Felton*, 521 U.S. 203 (1997), and *Mitchell v. Helms*, 530 U.S. 793 (2000). In *Agostini*, the Court upheld the decision that teachers, as public employees, could instruct students at sectarian schools under a federal program that provided instruction to students in low income areas. *Mitchell* allowed the transfer of educational materials and equipment to religious schools. For both cases, only secular goods and services could be exchanged.

Four judges voted in the plurality, which advanced neutrality significantly by allowing for transfers as long as “the category of aided institutions is religion-neutral, and the aided program does not result in religious indoctrination for which

³⁸ Ibid, 11.

³⁹ Ibid, 11.

⁴⁰ Ibid, 12.

government is responsible.”⁴¹ Lupu and Tuttle reason that the Mitchell plurality would approve historic preservation grants to active religious places as long as those eligible for grants were compiled of religion-neutral historic properties.⁴²

Three judges voted in support of separationism, citing government entanglement and the advancement of religion. Justices O’Connor and Breyer concurred, taking a view somewhat between neutrality and separationism. This opinion has become the controlling view on preservation grants for historic religious places, in that government aid can support sectarian institutions, but not sectarian activities. While this reasoning lends itself to educational challenges, it leaves many questions for preservation grants, in which it is more difficult to discern the religious from the secular. Can a building be separated from its use? What if the use is divided between the religious and the secular (such as active religious places that also offer community services)? As Lupu and Tuttle write, “the shift, led by Justices O’Connor and Breyer, from an institutional focus to a more surgically precise activity-based focus, leaves such questions unanswered.”⁴³

Lupu and Tuttle believe that the constitutionally distinctive character of religion is “real, but limited,” in that the Religion Clauses demarcate the government’s jurisdictional power. They argue this same distinction should be applied to the Free Exercise and Establishment Clauses: “What the government may

⁴¹ Lupu and Tuttle, 12.

⁴² Ibid, 13

⁴³ Ibid, 14.

not regulate, it may not support financially, because financial support inevitable involves some measure of regulatory control. ⁴⁴ They explain further that because the Establishment Clause requires boundaries that are jurisdictional and not rights based, religious properties cannot waive regulation that accompanies federal grants.

Under this concept, Lupu and Tuttle address how and to what extent historic religious places are “exempt from the regulatory regimes which control landmarked structures.”⁴⁵ If there is uncertainty over whether a religious property can be landmarked, this uncertainty will extended to the legality of preservation grants for such properties. Lupu and Tuttle consider four models for evaluating such uncertainty. The first is the example set by the California legislature, who exempt all noncommercial property owned by religious corporations from the authority of local government to designate properties as historical landmarks.⁴⁶ The reasoning behind this decision is that landmarking this type of property will burden religious organizations.

The second model comes from the decision of the Washington Supreme Court in *First Covenant Church v. Seattle*, 840 P.2nd 774 (Wash. 1992), which found that houses of worship are exempt from landmark designation, but other property owned by such houses, even if used for religious purposes, is not.⁴⁷ The third model results

⁴⁴ Ibid, 16.

⁴⁵ Ibid, 17.

⁴⁶ Ibid, 19.

⁴⁷ Ibid, 20.

from the decision of the Massachusetts Supreme Court Judicial Court in *Society of Jesus v. Boston Landmarks Commission*, 409 Mass. 38, 564 N.E.2d 571. (1990) in which the court found that the Boston Landmarks Commission did not have the authority to landmark the interior of The Immaculate Conception Church in South Boston.⁴⁸ Unlike exteriors, interiors are not visible from the public way, and the restriction of permanent alteration of interiors is far more invasive. The final model offers no exemption, as seen in *Rector of St. Bartholomew's Church v. City of New York*, 914 F.2d 348. 2d Cir. (1990).⁴⁹ St Bartholomew's Church wanted to avoid landmark status and tear down an auxiliary building to build an office tower that would support both church use and provide income by renting space. Lupu and Tuttle write, "The Landmarks Law in New York City, the court concluded, is a religion-neutral law of general applicability, and the Free Exercise Clause does not support claims of exemption from such regulatory regimes."⁵⁰

These four models all comment on the legality of preservation grants to historic religious places. While the California legislature does not prescribe to mandatory landmarking, a religious property could self-designate, potentially creating an opportunity for grant eligibility (however, such a grant would be barred by California's State Constitution). In the *First Covenant* model, and similar to California, religious places are excluded from mandatory landmarking, but it is unclear if they

⁴⁸ Ibid, 21.

⁴⁹ Ibid, 21.

⁵⁰ Lupu and Tuttle, 22.

could voluntarily submit to such status. The *Society of Jesus* model, while excluding interior designation, affirms the possibility of exterior designation and possible preservation grants. The *St. Bartholomew's* model also allows for the possibility of preservation grants by supporting the designation of both the exterior and interior of houses of worship.⁵¹

In Part IV, Lupu and Tuttle state that “though earlier Separationists overstated the distinctiveness of religious institutions, the Neutralists ignore the constitutionally salient reasons for maintaining limits on government with respect to such institutions.”⁵² In what they determine to be “revised” Separationism, there is a more nuanced interpretation of the Establishment Clause, evident in distinctions drawn between the legality of federal support for interior and exterior and liturgical and structural.

Returning to symmetry, Lupu and Tuttle argue that preservation grants should be applied to the exteriors of historic religious places, because if the state can regulate them through landmarking, they should be able to subsidize what they can regulate. Further, these exteriors are visible from the public way and contribute to the historic and cultural character of the surrounding neighborhood. Interiors provide more opportunities for excessive entanglement and should be protected more strictly and in line with Separationist interpretation. Despite architectural and historical

⁵¹ *Ibid*, 23.

⁵² *Ibid*, 41.

significance, since the government cannot subsidize what it cannot regulate, interiors should be outside of the scope of historic preservation grants.⁵³

This argument can also be extended to stained glass windows. While possibly having great artistic and historical significance, stained glass windows depict religious iconography, and therefore cannot be regulated by the government. Following the concept of symmetry, the preservation of stained glass windows cannot be federally subsidized.⁵⁴ Lupu and Tuttle conclude by writing that neither strict separationism, which rejects both subsidy and regulation, nor neutrality, which does not recognize the unique place of religion in the American legal system, are in line with current Constitutional interpretation. Further, the duality inherent in historic religious places, as both centers of faith and secular community, is not wholly captured by either view.⁵⁵

When the NPS rescinded the 2002 Save America's Treasure grant to Old North Church, the legal department of the National Trust for Historic Preservation (NTHP), working with the firm of Wilmer Cutler & Pickering (now William Hale), became involved in the effort to reverse the separationist policy. Paul Edmondson, Chief legal counsel at the NTHP, sent a memorandum dated November 20, 2002 to the Honorable William G. Myers, III. In this memorandum, titled "Re: The Constitutionality of Federal and State Historic Preservation Grants to Religious

⁵³ Ibid, 43.

⁵⁴ Ibid, 45.

⁵⁵ Ibid, 46.

Properties,” Wilmer Cutler & Pickering argue that the 1995 OLC opinion should be rejected as the Supreme Court has since moved toward more neutral policies. They state,

“Under that theory (of neutrality), the Establishment Clause permits the government to include religious groups within a neutrally defined aid program as long as the aid serves a secular purpose and is allocated on the basis of secular criteria, and the program contains safeguards to prevent diversion to religious purposes separate from the government’s secular objectives.”⁵⁶

The case studies discussed in this thesis all received funding from the grant selection process of the Save America’s Treasure program (it is possible to receive SAT funding from Congressional earmarks, but these cases are outside the scope of this thesis⁵⁷). As such, there are rigid requirements set by the SAT program to ensure neutrality. In addition to requiring national historic significance, identified by being a National Historic Landmark or on the National Register (or eligible to become so), grantees must demonstrate a “clear public benefit” and an “urgent preservation and/or conservation need.”⁵⁸

⁵⁶ Memo from Wilmer, Cutler, Pickering to the National Trust for Historic Preservation and Partners for Sacred Places, *Re: The Constitutionality of Federal and State Historic Preservation Grants to Religious Properties*. 20 November 2002. 2. Accessed from Partners at Sacred Places, Inc. July 2008.

⁵⁷ Further information on the structure of funding provided by SAT can be found at <http://www.saveamericastreasures.org/funding.htm>

⁵⁸ Wilmer, Cutler, Pickering Memo, 6.

Applications are reviewed by an expert panel of representatives from the National Endowment for the Arts, the National Endowment for the Humanities, the National Park Service, and the Institute for Museum and Library Sciences. Applications are reduced from approximately 400 to 120, where they are reviewed by five experts in the fields of historic preservation, conservation, collections management, archaeology, and curatorship. The identities of these reviewers are kept hidden to prevent lobbying. All reviewers are selected by the NPS and are federal employees in agencies such as the Advisory Council for Historic Preservation and the General Services Administration. The Secretary of the Interior awards the funds after reviewers designate the grantees.⁵⁹

SAT funds must be used for the purposes designated in the grant application. There are strict conditions that prevent funding from being diverted to undefined uses. These conditions include a reimbursement process, in which funds are given only after an institution has incurred costs and submitted detail receipts of these costs to the NPS. The SAT grants are also matching, in that non-federal funds must be secured in the same amount as the federal grant awarded. The NPS has access to all records concerning how the grant is spent, and they may request meetings to discuss spending. Institutions must keep details records and are subject to audit. Further, all work must be in agreement with Secretary of the Interior's Standards for the Treatment of Historic Properties.

⁵⁹ Ibid, 6.

Wilmer Cutler and Pickering argue that the theory of separationism is “out of date, discriminatory, and wrong.”⁶⁰ The preservation programs are designed to preserve America’s cultural heritage and provide controls that allow the government to effectively regulate awarded funds. In a two part analysis, the firm argues that preservation grants should be permissible because of the Supreme Court’s move to neutrality and the 1995 OLC’s conflict with that move. In the first part, they outline the cases discussed in Lupu and Tuttle, focusing specifically on *Mitchell v. Helms*, 530 U.S.793 (2000), in which it was upheld that federal funds could be given to purchase educational materials for public and private schools. In that plurality, four of the justices came close to supporting neutrality as a default interpretation, arguing that if no distinction was made between “the religious, irreligious, and areligious,” in matters involving support for secular activity, then it can be determined the government is supporting only that secular activity and not religious indoctrination.⁶¹ In Justices O’Connor and Breyer’s concurring opinion, they supported neutrality, but argued it could not be the only instrument of measuring legality in Establishment Clause jurisprudence.⁶²

In the second part of their argument, Wilmer Cutler, and Pickering state that the 1995 OLC Opinion’s regarding the threat of government’s valuing of religion is

⁶⁰ Ibid, 8.

⁶¹ Ibid, 10.

⁶² Ibid, 10.

“misplaced,” in that only the history and artistic merit of applicants is measured.⁶³ Further, multiples levels of review by both preservation experts and government officers are required. They argue that the 1995 OLC Opinion expressly disfavors religion as only those historic religious places no longer affiliated with congregations are eligible for the grant. The value of a historic American landmark should not depend on whether an active congregation is or is not present, “taking such an affiliation into account, and withholding generally applicable aid wherever it is found, is at war with principles of religious liberty most Americans associate with the First Amendment.”⁶⁴

Under *Mitchell*, it is no longer assumed that just because an institution is religious does not automatically make it ineligible for government funding. Justice O’Connor would impose the requirement of plaintiffs to show where and how diversion of funds to religious purposes occurs. The rulings of *Tilton* and *Nyquist* discussed earlier in this chapter, and their rejection of aid for religiously affiliated entities because of their “pervasively sectarian” nature are no longer the ruling opinion of the Supreme Court. Wilmer Cutler, and Pickering argue that there has been a shift of inquiry from “how religious a recipient might be to the recipient’s actual use of government aid.”⁶⁵ The memorandum further states that while fixing a historic roof might have the ancillary benefit of allowing for religious worship inside, it

⁶³ Ibid, 12.

⁶⁴ Ibid, 12.

⁶⁵ Ibid, 12.

does not fall under a diversion of funds. This distinction requires funds to be used in a manner in conflict with the government's intended secular purpose, which are negated in the case of preservation grants by numerous controls.

These arguments proved persuasive, and the Office of Legal Counsel wrote a renewed opinion on April 30, 2003, titled *Authority of the Department of the Interior to Provide Historic Preservation Grants to Historic Religious Properties such as The Old North Church*.⁶⁶ The OLC finds these grants to be constitutional. In this opinion, their argument is outlined and reflects the Supreme Court's move toward neutrality.

In 2002, the OLC found it constitutional for the Federal Emergency Management Agency (FEMA) to provide direct federal assistance for the reconstruction of the Seattle Hebrew Academy.⁶⁷ These grants are made available based on neutral criteria to a diverse array of beneficiaries, both public and private, with no reference made to religious affiliation. As these funds can be neutrally applied, and since FEMA follows this neutral application, the OLC reasoned that the grants were in keeping with other long established federal programs considered to be general government benefits and services. Supreme Court precedent is that religious institutions are entitled to these services, such as fire and police protection.

⁶⁶ U.S. Department of Justice, Office of Legal Counsel, Memorandum Opinion for the Solicitor, Department of the Interior. *Authority of the Department of the Interior to Provide Historic Preservation Grants to Historic Religious Properties such as the Old North Church*. 30 April 2003.

⁶⁷ *Ibid*, 80.

In that 2002 FEMA opinion, the OLC took issue with 1995 opinion's application of *Tilton* and *Nyquist*. Specifically, they state that the 1995 opinion "did not consider whether the rule of (*Tilton* and *Nyquist*) should apply where the grants at issue are available to a wide array of nonprofit institutions, rather than being limited to education institutions."⁶⁸ In addition, the majority of the Supreme Court no longer supports the pervasively sectarian doctrine present in the *Tilton* and *Nyquist* rulings.

The OLC discusses three reasons for why they find preservation grants to historic religious properties to be constitutional.⁶⁹

- i. The federal government has an obvious and powerful interest in preserving all sites of historic significance to the nation, without regard to their religious or secular character
- ii. Eligibility for historic preservation grants extends to a broad class of beneficiaries, defined without reference to religion and including both public and private institutions.
- iii. Although the criteria for funding require a measure of subjective judgment, those criteria are amenable to neutral application, and there is no basis to conclude that those who administer the Save America's Treasures program will do so in a manner that favors religious institutions.

For these reasons, the opinion finds that "no reasonable observer would view the Park Service's provision of a Save America's Treasures grant to an otherwise eligible religious structure as an endorsement of religion."⁷⁰ Further, any remaining doubt would be dispelled by the rigorous amount of safeguards put in place to make

⁶⁸ Ibid, 80.

⁶⁹ Ibid, 81.

⁷⁰ Ibid, 81.

sure no funds are redirected toward religious purposes. The opinion goes so far as to state that these regulatory controls are not necessary given that these preservation grants to a wide selection of public and private entities. The very inclusion of such controls supports the opinion’s conclusion that there is “no constitutional infirmity here.”⁷¹

The opinion then further explains its three reasons for supporting preservation grants for historic religious properties. For the first, whereby the National Park Service has an interest in protecting *all* historic sites, that the cases to which the 1995 opinion refers (including *Tilton* and *Nysquist*) refer specifically to aid involving education. Historically, the Court has subjected this aid to far more intense scrutiny than aid to other religious entities. Religious indoctrination is more easily connected to the idea of education than preservation. The OLC states, “The aid at issue here is provided in return for the benefit of public access to a broad array of historically significant properties – some public, some private, some secular, some religious.”⁷² Public access and education are different issues, the former posing a far less threat to religious indoctrination.

For their second reason, whereby preservation grants are extended to a wide range of beneficiaries with diverse attributes, the OLC reasons that preservation is analogous to general services allowed to religious organizations by *Everson v. Board of Education*, 330 U.S. 1 (1947). These services include police and fire protection,

⁷¹ Ibid, 82.

⁷² Ibid, 82.

sewage disposal, and school buses for students who attend religious school. While preservation grants are not as generally available at these services, they are widely accessible and apply to an unlimited number of building type and history. Here, the OLC cites *Walz v. Tax Commission*, 397 U.S. 664 (1970), in which the Court rejected a challenge to the Establishment Clause for a property tax exemption made available to both religious properties and other non-profit institutions (such as libraries, hospitals, and playgrounds). As beneficiaries of the tax program were not limited to, but included, religious institutions, the Court found the program to be in accordance with *Everson*. The OLC argues that as a broad constituency sustained the inclusion of religious institutions in *Walz*, that same reasoning can be applied for the constitutionality of the Save America's Treasures grant to Old North Church.⁷³

Further, in addition to serving a wide array of buildings, the organizations included in preservation grant applications include private non-profits, state and local governments, Native American tribes, and many federal agencies. The purpose of the Save America's Treasures is preservation, not the advancement of religion. The inherent variety of beneficiary type allows for the inclusion of religious properties in this type of grant. The OLC stresses this point in the following

“The variety of structures that have been rehabilitated confirms the common sense notion that neutrality events happen in all sorts of places. There is no basis for concern that the (Save America's Treasures) Program

⁷³ Ibid, 85.

will become a subterfuge designed to direct public money to churches, or to engage in any other sort of religious favoritism.”⁷⁴

The third reason is the most subjective, whereby applicants are selected under neutral consideration. In deciding the recipients of Save America’s Treasure grants, government officials are required to make seemingly subjective decisions regarding a religious place’s historic, artistic, cultural, and public value. Since *Everson*, the Court is clear on the belief that the dispersement of aid based solely on judgment of what best serves the public interest will pose a significant threat of favoritism.

Subjective criteria must be amenable to neutral application. Here, the OLC cites *United States v. Salerno*, 481 U.S. 739, 745 (1987).⁷⁵ The OLC argues that each of the criteria in the Save America’s Treasures question is amenable to this neutral application. The first criterion concerns national and architectural significance. While there are some cases in which these types of significance can and will be disputed by historians and other experts, the importance of majority of our National Historic Landmarks, such as Mount Vernon and Monticello ,are indisputable. This same reasoning applies to churches, whether it be a religious place’s association with a historical figure (Paul Revere at Old North Church), an architectural style (Frank Lloyd Wright’s Unity Temple), or a historic event (Martin

⁷⁴ Ibid, 85.

⁷⁵ Ibid, 86.

Luther King, Jr. and the 16th Street Baptist Church). These artistic, historical, and cultural affiliations do not involve religion and can be applied through neutral consideration.

The second criterion is that a structure must be threatened, endangered, or have “an urgent preservation and/or conservation need.” The National Park Service evaluates these criteria based on physical condition and so they are wholly secular decisions. Similarly, the requirement that a project be feasible is confined to the organization’s ability to “accomplish the project within the proposed activities, schedule and budget described in the application,” and to “match Federal funds.”⁷⁶ There are no judgments based on religious considerations.

The third criterion is that a project has “educational, interpretive, or training value.”⁷⁷ A building’s religious affiliation and educational or interpretive value are not mutually exclusive. The case studies in this thesis will show that these religious places have a significant amount of educational value. The final criterion for a grant applicant is whether or not the project would serve a “clear public benefit.”⁷⁸ Similar to the question of education value, the case studies will show that historic religious places fulfill this clause. The OLC writes that public benefit is not concerned with the religious aspects of the institution, but “is based on the public value of being able to view, and learn from, the building and its place in our nation’s history – on its

⁷⁶ Ibid, 87.

⁷⁷ Ibid, 87.

⁷⁸ Ibid, 88.

accessibility to ordinary Americans.”⁷⁹ Simply, a grant applicant’s religious affiliation, or lack thereof, is not a factor in award decisions.

In a further comparison of funding education and funding historic preservation, the OLC writes that federal funding for religiously affiliated schools can be more directly linked to government endorsement because of the type of curriculum taught at those schools. This reasoning does not extend to preservation because whether a building is religious or not is not relevant to that building’s historic or artistic associations. Funding a heritage site meant for public benefit is not an endorsement of religion. The OLC also asserts that the constitutionality of federally supported historic preservation grants in keeping with the intentions behind the Religion Clauses. They state,

“They (the Religion Clauses) are designed to minimize, to the extent practicable, the government’s influence over private decisions and matters involving religion, and the Supreme Court has repeatedly explained that governmental assistance must not be structured in a way that creates a financial incentive for people to change their religious (or nonreligious) behavior.”⁸⁰

When judicial opinion did not uphold federal government support of historic religious places, those places had incentive to stop religious service and become secular historic sites. With this 2003 opinion, there is no longer a financial incentive to abandon a religious affiliation.

⁷⁹ Ibid, 88.

⁸⁰ Ibid, 89.

Further regulatory requirements remove the possibility of redirecting federal monies to religious worship. Eligibility for grants is extended only to historically significant religious places. Further, the non-profit organizations that manage the grant must agree to keep the structure open to the public for 50 years. Owners must also accept a 50 year easement to preserve, repair, and maintain the structure. To ensure these requirements are fulfilled, detailed records must be kept and are subject to government audit to make sure funds are spent only for the purposes awarded. While the OLC admits that funding that goes to support the preservation of a religious place for public benefit also indirectly allows for religious service to continue in that building, it is not the purpose of the grant. They write,

“But such a subsidy is indirect and remote, and that is not what the subsidy is for; rather, the subsidy is provided solely for the benefit to the public of being able to view a structure that played an important role in history.”⁸¹

In effect, the OLC finds preservation grants as a fee-for-service, in which the government preserves a building in exchange for an easement and 50 years of public access for visitors to explore America’s history.⁸²

The 2003 OLC opinion concludes with an argument for why the decisions in *Tilton* and *Nyquist* are not applicable in deciding whether federally funded historic preservation grants to religious properties are constitutional. This argument follows

⁸¹ Ibid, 90.

⁸² Ibid, 91.

the logic set out by Wilmer Cutler, and Pickering, citing the more neutral rulings since those cases and the rejection of pervasively sectarian doctrine. For the reasons discussed herein, the OLC found the preservation grants provided under the Save America's Treasures program to historic religious places constitutional. Gale Norton, Secretary of the Interior at the time, re-awarded Old North Church with its \$300,000 Save America's Treasures grant in May 2003.

CHAPTER 3: OLD NORTH CHURCH

North End, Boston, Massachusetts

Designated National Historic Landmark: January 20, 1961

Save America's Treasures Grant: 2003 for \$317,000

HISTORY OF THE CHURCH AND NON-PROFIT

“Listen my children and you shall hear
Of the midnight ride of Paul Revere,
On the eighteenth of April, in Seventy-five;
Hardly a man is now alive
Who remembers that famous day and year.

He said to his friend, "If the British march
By land or sea from the town to-night,
Hang a lantern aloft in the belfry arch
Of the North Church tower as a signal light,—
One if by land, and two if by sea;
And I on the opposite shore will be,
Ready to ride and spread the alarm
Through every Middlesex village and farm,
For the country folk to be up and to arm."

Excerpt from *The Midnight Ride of Paul Revere*, by Henry Wadsworth Longfellow⁸³

While a very inspired poem, Longfellow's account of Paul Revere's ride is not entirely accurate. Revere, worried that he would be captured, had the lanterns shown as a signal from him, and not to him as Longfellow suggests. This signal was sent to Patriots in Charlestown across the Boston Harbor who would ride on to

⁸³ Longfellow, Henry Wadsworth. "Paul Revere's Ride." The Paul Revere House website. Available at <http://www.paulreverehouse.org/ride/poem.shtml>. Accessed 1 April 2009.

Lexington. While not a parishioner of Old North Church, Paul Revere had been a bell-ringer for the congregation as a boy. He knew that Old North Church was the tallest building in Boston at the time, and the signal's chance of success in reaching the awaiting Patriots would be greatest from that point (Figure 1).⁸⁴

At approximately 10pm on the evening of April 18, 1775, church sexton Robert Newman entered through and locked the front door of Old North Church. He crept up the stairs to the balcony and entered a doorway to the steeple. Newman climbed the 14 story steeple in complete darkness. He briefly hung two lanterns in the church steeple to warn of the British troops' movement by sea toward Lexington, where John Adams and John Hancock were staying. On his way down, Newman saw that British troops were trying to break into the front door. He ran down the center aisle of the church and escaped to the right of the altar out of a window that has since been filled in.⁸⁵ While questioned later, Newman was never arrested. Paul Revere did make it to Lexington, but the British troops marched 7 miles farther, to seize munitions at Concord. These events triggered the American Revolution (Figure 2).

While most school children know the story of "One if By Land, Two if by Sea," not many know that the church was built in 1723, making Old North Church the city's oldest standing church building (Figure 3). Designed in the style of Sir Christopher

⁸⁴ Bahne, Charles. "Paul Revere's Ride." *The Complete Guide to Boston's Freedom Trail*. Boston: Newtowne Publishing (2005). 50.

⁸⁵ "Events of April 18, 1775." Old North Church website. Available at <http://www.oldnorth.com/history/april18.htm>. Accessed 20 March 2009.

Wren's London churches, Old North looks much today as it did during Revolutionary America. The starkly white box pews, chandelier, and organ are indicative of the building's association with the Anglican Church (Figure 4). Congregants had to rent their pew for a fee; those on the center aisle were the most desirable and expensive. Most of the Revolutionary congregants remained loyal to the crown.⁸⁶

As detailed in the legal history, Old North Church successfully applied for a SAT grant in 2002 for restoration of the original windows of the church. Upon the NPS's recognition that the Old North Foundation, the grantee entity, was connected to an active religious property, this grant was rescinded. Reverend Stephen Ayers arrived at Christ Church in the City of Boston, the congregational entity of Old North, in 1997. It was under his leadership that Old North decided to challenge the grant's recession by the NPS.⁸⁷

When Rev. Ayers began his tenure, he served both as head of the religious congregation and the secular non-profit foundation. At this time, the foundation existed mostly on paper and was not a major tool for fundraising, tourism, or preservation efforts. It acted mostly as a passive conduit for grants for those organizations that restricted funding directly to religious organizations. In effect, as Rev. Ayers the leader of both entities, there was no clear separation between the congregation and foundation. All members of the non-profit, including the

⁸⁶ "Colonial Congregation." Old North Church website. Available at <http://www.oldnorth.com/history/tour.htm>. Accessed 17 March 2009.

⁸⁷ Ayers, Reverend Stephen, Vicar of Old North Church. Personal Interview. 25 February 2009.

development director, gift shop manager, and the board, were also members of the congregation.

At this time, the business plan was to not spend money unless absolutely necessary. There was a brief tour, but the goal was to get people in and out of the gift shop. In 2000, 650,000 people visited the church, and a substantial amount passed through the gift shop. Rev. Ayers coordinated a million dollar capital campaign during this period, but only 10% came from the congregation, the rest resulting from regional foundations and state preservation agencies. He also started the Behind the Scenes Tour, focused on the church's history during the time of Paul Revere, but this first incarnation focused mostly on the architectural history outlined in the master plan (Figure 5). Rev. Ayers also started the annual re-enactment event, *Paul Revere Tonight!*, which details Revere's life and account of his midnight ride.

However, by this time because of a lack of attention to the physical fabric of the campus, substantial delayed maintenance began to become a problem. Rev. Ayers also began to realize that he did not have the capacity to raise money through the foundation while also being the spiritual leader for the congregation. When the September 11, 2001, terrorist attacks occurred, the business plan of spending as little as possible and relying on a steady stream of tourism failed. Tourism decreased by 25%, from 650,000 to fewer than 500,000 and staff had to be drastically cut. Rev. Ayers felt it was time to consider separate entities for the various secular and religious responsibilities. Rev. Ayers had begun building a more diverse board in 2000, including current chair William M. Fowler, a Northeastern University professor who specializes in American Revolutionary history. Rev. Ayers continued to build a

board with members outside of the congregation after the economic collapse in 2001. After reviewing models with both church leadership and the foundation board, the separation between the foundation and congregation came to fruition in 2003-04.

Before this official separation, Rev. Ayers began to review the status of buildings on the Old North campus. He purchased and restored an old tenement building next to the church for both religious and foundational offices. In 2002, the structure of the church was considered to be in good shape, but the original windows of the sanctuary were in a state of deterioration. Lynne Spencer, a principal architect at Menders, Torrey, and Spencer, Inc., in Boston was aware of Old North Church's National Historic Landmark status and urged Rev. Ayers to apply for the SAT grant.

Rev. Ayers knew there was an issue with church and state funding before he applied for the SAT grant. He believed and continues to believe that the Old North Church was and is an important and irreplaceable part of American history. This belief prompted his desire to challenge Dellinger's 1995 opinion on the constitutionality of federal funding for historic religious places. Rev. Ayers states that he and others associated with the application made no effort to hide the Old North Foundation's connection to an active house of worship. While the congregation is not discussed in the grant application, as there is no section that would require such a discussion, both the Proof of Non-Profit Status and Articles of Incorporation for the Old North Foundation that are included in the grant application do state that Old North Church is owned by Christ Church in the City of Boston.

Records from the Old North Foundation detail the timeline of the SAT grant application in April 2002 to the first grant award in September 2002 through its rescission in October 2002 and re-award in May 2003. The first written contact between the Old North Foundation and the NPS is dated from April 3, 2002. Anne Bailey Berman, then President of the Old North Foundation, writes a letter to the Save America's Treasures program in thanks for the opportunity to submit a grant application to the program. In this letter, Berman states how

“preservation efforts now focus on an immediate need – the restoration of the church’s historic windows...these surviving windows are now 280 years old and present some of the oldest fenestration in Boston. Repairs and painting have maintained them. Now, however, they are showing the effects of aging and weather to the point that woodwork repair and glass replacement is imperative to ensure the legacy of this National Historic Landmark for future generation.”⁸⁸

Additional historical associations, such as the church’s connection to the 1775 two lanterns and Henry Wadsworth Longfellow’s 1861 poem, *Paul Revere’s Ride*, are also documented.

On September 27, 2002, Joseph T. Wallis, Chief, State, Tribal and Local Programs Branch of the National Park Service, writes to Berman informing the Old North Foundation that they have been selected for funding through the Save America’s Treasures program for an award of \$317,000. Mr. Wallis writes that the grant will be managed by the NPS, “who will shortly be sending information that

⁸⁸ Berman, Anne Bailey, President of the Old North Foundation Letter to the Save America’s Treasure’s Program. 3 April 2002. All of the following letters are available in the Old North Foundation’s 2002 Save American’s Treasure’s grant application.

outlines the requirements for the grant.”⁸⁹ On October 4, 2002, Hampton Tucker of the Grants Division of the NPS on behalf of Joseph T. Wallis writes to Cheryl P. Aldridge, Director of Programs and Development at the Old North Foundation, informing the foundation to submit a revised budget and scope of work for both the awarded grant and non-Federal matching share. Tucker writes,

“The required matching share of at least \$317,000 must come from non-Federal sources, and must be expended during the grant period for work on this preservation project. Activities to be supported must be those directly related to and necessary for the repair and preservation of the historic property being funded.”⁹⁰

The letter further explains that after this information is received by NPS, a grant agreement will be drawn up.

Cheryl Aldridge sends a fax to Hampton Tucker on October, 15, 2002, a “Revised Budget for the Old North Church Window Project.” In the facsimile cover sheet, Aldridge writes that the original scope of work from the grant application has not changed. Also, “a local foundation has committed \$100,000 to the project; a \$100,000 grant proposal is pending; and an application for \$100,000 to the Massachusetts Preservation Projects Fund is [sic] been prepared.”⁹¹ Aldridge also

⁸⁹ Wallis, Joseph T., Chief, State, Tribal, Local Programs Branch of the National Park Service, Letter to Anne Bailey Berman. 27 September 2002.

⁹⁰ Tucker, Hampton, Grants Division of the National Park Service Letter to Cheryl P. Aldridge, Director of Programs and Development at the Old North Foundation. 4 October 2002.

⁹¹ Aldridge, Cheryl Facsimile to Hampton Tucker, Re: Revised Budget for the Old North Church Window Project. 15 October 2002.

informs NPS that the official name of the organization is Old North Foundation of Boston, Inc., not Old North Church Foundation of Boston, Inc, the name on past correspondence between the foundation and NPS.

On October 22, 2002, Joseph T. Wallis writes to Cheryl P. Aldridge informing the Old North Foundation that the offer of a Save America's Treasure grant in the amount of \$317,000 must be withdrawn because of a violation of the Establishment Clause of the First Amendment of the Constitution. Wallis writes,

“It (the 1995 OLC opinion) confirms that the Constitutional requirement for separation of church and state overrides the amendment to Section 101(e)(4) of the National Historic Preservation Act that was enacted in 1992, whereby Congress authorized the use of historic preservation grants to repair religious properties listed in the National Register of Historic Places (16 U.S.C. 470a).”⁹²

Wallis also writes that while the NPS appreciates the historical and architectural significance of Old North Church, the selection panel did not know that “the property was used as an active church holding regular religious services” because the application came from the Old North Foundation.⁹³ Hampton Tucker, now Chief of the Historic Preservation Grants Division, confirms that the panel did not know about the active congregation. The NPS did not become aware of this religious

⁹² Wallis, Joseph T. Letter to Cheryl Aldridge on rescission of SAT grant. 22 Oct. 2002.

⁹³ Ibid.

affiliation until Tucker's internet research on Old North Church revealed the connection between the two entities.⁹⁴

On November 4, 2002, Rev. Ayres writes to James Towney, Director of The White House Office of Faith Based Initiatives, asking for assistance from The White House Office in challenging the 1995 OLC opinion. Ayers writes,

"I am not a lawyer, but I must note that the 1995 opinion recognized the ambiguity surrounding possible government support for historic preservation of religious buildings, 'The lines separating permissible from impermissible uses are sometimes hard to discern' (page 7 last paragraph). The Commonwealth of Massachusetts interprets the issue differently and has made preservation grants for exterior work to the Old North Church and to dozens of other lesser known churches and synagogues."⁹⁵

Rev. Ayer specifically asks if The White House Office would be willing to persuade the Justice Department to revisit the issue of federal funding for historic religious properties.

According to Rev. Ayers, the White House Office of Faith Based Initiatives did agree to pursue a change in federal policy. Also joining this partnership was the National Trust for Historic Preservation and Senator Edward Kennedy's office. Rev. Ayers recounts that the NTHP was thrilled to become involved in the effort and

⁹⁴ Tucker, Hampton. Chief of Historic Preservation Grants Division, National Park Service. Personal Interview. 13 March 2009.

⁹⁵ Ayers, Rev. Stephen Letter to James Towney, Director, The White House Office of Faith Based Initiatives. 4 November 2002.

because of Old North Church importance in American history, they could not have asked for a better case study to challenge the policy. In their opinion, it was a very clear cut case and the 1995 OLC opinion was out of date when compared to more recent court precedents. Paul Edmondson, General Counsel at the NTHP, states that his office first began to look at the issue of federal preservation grants for historic religious properties in the late 1990's. When they became aware of the Old North Church rescinded SAT grant, they found a case to trumpet the change of the OLC policy. The major basis for the OLC reconsideration was the Wilmer Cutler and Pickering memo, detailed in the legal history chapter, lead by Louis Cohen, a senior partner at the firm and a board member of Partners for Sacred Places.⁹⁶

As recounted earlier, the OLC did reverse the 1995 opinion on April 30, 2003. Right before Memorial Day weekend of that same year, Rev. Ayers received a phone call from the Secretary of the Interior, Gale A. Norton, informing him that the NPS would be awarding the Old North Foundation with a \$317,000 grant for restoration of the church's window. She also asked Rev. Ayers to contact local politicians in order for them to be in attendance at a press conference she intended to hold that following Tuesday on the steps of Old North Church to announce the new federal policy. *The New York Times* reported on Norton's comments at this conference the following day:

⁹⁶ Edmondson, Paul. General Counsel, National Trust for Historic Preservation. Email to the author. 7 April 2009.

"Today we have a new policy that will bring balance to historic preservation and end the discriminatory double standard that has been applied against religious properties," said Ms. Norton, standing below the church's famed steeple."⁹⁷

At the same time the grant was being re-awarded, board member Edward Pignone became the Executive Director of the foundation and began developing educational programming for public benefit.

PUBLIC BENEFIT

While Old North Church is known for its connections to "One if By Land, Two if By Sea," the Foundation is committed to interpreting more of its history than the events of April 18, 1775. Current emphasis is being placed on developing a fuller understanding of the Revolutionary-era congregation, including what prompted the decisions they made about loyalty when fighting began. This history is being interpreted for the public in a website set to launch later this year. The use of technology shows a growing trend toward professionalization at the Old North Foundation.

Pignone confirms Rev. Ayer's description of the gradual professionalization of the Old North Foundation.⁹⁸ The founding of the non-profit in 1992 was in response

⁹⁷ Goodstein, Laurie and Richard W. Stevenson. "In Shift, U.S. to Offer Grants to Historic Churches." *The New York Times*. 23 May 2008. Available at <http://www.nytimes.com/2003/05/28/us/in-shift-us-to-offer-grants-to-historic-churches.html?sec=&spon=&pagewanted=1>.

⁹⁸ Pignone, Edward. Executive Director, Old North Foundation. Personal Interview. 25 February 2009.

to caring for the preservation of the church building and Old North campus. The function of the foundation was mostly to serve as a conduit for grants. From 2000-2003 Rev. Ayers began to reenergize the foundation and part of that initiative involved the bifurcation of responsibilities between the congregation and non-profit. This split became effective in 2004, as Pignone administered the SAT grant. Pignone states the main reason for the division was to allow both entities to focus on their core missions, the religious for the congregation and the historical for the non-profit.

As one of the most visited sites in Boston with over 500,000 annual visitors, Pignone focused on enhancing the visitor experience, including professionalizing the interpreters and adding more historical content to the Behind the Scenes tour. There are currently two ways to tour the church: dropping in as part of the Freedom Trail, the 2.5 mile walking trail that takes visitors to 16 historic sites in Boston, or the Behind the Scenes Tour. For the Freedom Trail drop-in, tickets are not required, but a \$1 donation is suggested. While seated in the church's pews, guides give visitors a 10 minute presentation on the founding of the church, its architecture, and its role in the American Revolution.

For those who want a more in-depth history of the church and its architecture, the Behind the Scenes tour is offered on the hour on the weekends in June and daily from July – October. Tickets are available either online or at the Gift Shop. Prices are currently \$8 for adults, \$6 for students/seniors/military, and \$5 for children. The tour begins in the Ebenezer Clough House, built in 1712 and now part of the Old North campus (Figure 6). Visitors listen to a brief video presentation and are then lead to the main sanctuary of the church. Visitors are then able to climb to the

second floor gallery to see the bell ringing chamber, where Paul Revere rang bells as a teenager (Figure 7). Unfortunately, visitors are not able to climb to the top of the steeple to see the original location of the lanterns because of steep, narrow passages and for liability reasons. Access is provided to the church's crypts, where over 1,100 bodies are buried, including Maj. John Pitcairn, the commanding British officer at the Battle of Bunker Hill.

The actual tour presentation gets refreshed every season, as tours are not offered year round. The foundation is looking to increase signage and produce a more extensive Visitor's Guide. As the foundation's separation from the congregation is still relatively new, there are issues with professionalization. Due to the current economic climate, the foundation has been forced to reduce the already small staff, downgrading several full-time positions to consultants. Not being able to offer year round tours further shows this struggle with professionalization. Recognizing a lack of capacity, the foundation moved the archives, which date to 1723, to the Massachusetts Historical Society, who digitized them and made them publicly accessible online.

Elizabeth Nevins, the Director of Education and Interpretation, cites this slowness to professionalize as a reason for why there is not a comprehensive, published church history (although the foundation is currently working with economic and maritime historian John Tyler to investigate the socioeconomic status of Old North congregants during the American Revolution to determine if socioeconomics

influenced support for or rejection of independence).⁹⁹ She believes that the Old North Church, as a historic site, should be at the same level as the Old South Meetinghouse and the Paul Revere House.

Pignone did not have non-profit experience before taking the position of Executive Director, this lack of experience combined with a board not focused on fundraising, has made professionalization difficult. A non-profit that operates like a business requires certain funding levels and a planned development program, neither of which are currently in place at the Old North Foundation. The foundation had been doing well before current economic problems, but now there are limited cash reserves. Forced to reduce staff, the foundation is not in the position to start a time intensive capital campaign at this time.

Nevins also states that the foundation currently does not charge admission to the church because the board is worried that if they do, it will affect their main attraction for grants: 500,000 annual visitors. However, those visitors only give \$0.25, totally \$125,000. Nevins argues that if you asked for \$1 and visitor attendance dropped by 60% to 200,000, you would still have \$200,000, which is an increase of \$75,000. Nevins also believes that better education could be done with 200,000 visitors who are truly interested in the site, and the stress on the building could be reduced. As Nevins questions, how much meaningful education and

⁹⁹ Nevins, Elizabeth. Director of Education and Interpretation, Old North Foundation. Personal Interview. 4 March 2009.

interpretation can really be provided to 500,000 people who stay an average of 15 minutes?

This question is a common problem in preservation. Should the entity responsible for decision-making at a site favor accessibility or protection of the physical fabric? What is the priority? A balance between the two is difficult to achieve, especially when funding issues are involved. The foundation's mission does not provide any clear answers¹⁰⁰:

- Guide and support the utilization and preservation of the Old North, its buildings, and its campus;
- Foster educational and interpretative programs for students and visitors who experience the Old North; and
- Engage the public in Old North's history and its role in inspiring liberty and freedom.

If anything, the mission makes it more difficult to answer accessibility questions. As preservation and public education are given equal weight, it is up to the board to decide when it is best to restrict or increase access. Obviously, if the church and campus are not preserved, there can be no interpretation. However, without tourism, there is little support for funding for activities such as continued building maintenance.

This questioning brings up an interesting concept: Would foundations and the government really not give (or give less) if there were fewer visitors? Despite tourist

¹⁰⁰ "About the Foundation." Old North Foundation website. Accessed 10 March 2009. Available at <http://www.oldnorth.com/history/foundation.htm>.

visitation, it is still Old North Church. Does a historic site's significance come from history itself or from the fact that people visit that history? If the board believes that they will receive fewer donations if visitation is reduced, then the statement that a historic site's significance comes at least partially from the public's interest in it is equivalent to being true. It is irrelevant if it is actually true, because the board's belief in it directly affects the site management of the church.

To address these difficulties, the foundation has secured recent grants for interpretive programming. The foundation received grants from the National Endowment for the Humanities and the Tauck Foundation and to increase educational programs, in particular to school age children. This spring, a website entitled *Tories, Timid, or True Blue?* will be launched. Designed in collaboration with MIT's HyperStudio for Digital Humanities and Myriad, Inc., this website features "interactive biographical modules," based on the historical records of four families who were members of the Old North's 1775 congregation.¹⁰¹ These modules are designed specifically to encourage critical thinking about how historical records are organized and interpreted.

The four families selected are the following:

Mather Byles, rector of Old North Church, fired the morning of April 18, 1775

¹⁰¹ "Final Performance Report: *Tories, Timid, or True Blue?*." NEH. November 2008. Old North Foundation.

John Pulling, vestryman of Old North, who might have hung the lanterns on April, 18, 1775 (there is controversy over whether Pulling or the church sexton, Robert Newman, hung the lanterns)

Margaret Gage, the American wife of British General Thomas Gage, who is suspected of being the revealer of Gage's plan to march on Lexington and Concord.

Elizabeth Humphries, the matriarch of a family of free blacks who were members of the congregation at the start of the American Revolution.

The original grant application called for visitors to the website to decide the allegiance of each family; Patriot, Tory, or Neutral. After working on the conceptual framework of the modules, it was decided that it would be far more interesting and educational for visitors to determine how the families chose those sides. The website presents the choices they faced and each module focuses on the historical thinking skills associated with each story modeled. Each module invites users to develop a different historical skill: multiple sources in Byles, reconciling conflicting accounts in Pulling, historiography in Gage, and dealing with an absence of information in Humphries.

Nevins states the website will act as a presentation of open history. The website is not a traditional exercise of interpretation, but rather asks a series of questions. This intellectual activity allows students to draw their own conclusions and learn how to use historical documents to defend their reasoning. Many times, people do not question how they experience a site. They respond to interpretation already completed for them, but do not consider the authority behind this information. With a history book, readers look toward the author as an authority on

which he or she is writing. But who is the author of a site? This kind of open-ended interpretation allows students to learn that history is not always so defined and that the way at which you arrive at an answer can be more rewarding than a correct answer. Historic sites, through the use of authentic fabric, should prompt more questions than answers.

In the summer of 2008, the foundation tested a prototype of the *Tories, Timid, or True Blue?* website on secondary school teachers and students in the Metro Boston area. Racially and economically diverse students in grades 5-12 tested the website. Results from 16 teacher test subjects showed that the prototype website encouraged historical thinking and could be a successful classroom teaching tool. 65% of participants stated they were “very likely” or “definitely” to use at least one of the modules in their classrooms. The inclusion of biographical information to “set the stage for inquiry” was rated “most effective” by 89% of participants.

The foundation did further evaluative testing with 18 teachers, again from grade levels 5-12, to determine if the website increased the capacity for historical thinking. Teachers were asked to “think aloud” during various testing scenarios, including, including visitation at an unrelated historic site (Old South Meetinghouse) to determine the level of historical thinking prior to website use; working with the website; touring Old North Church; and interpreting an Old North Church museum panel. Participant teachers were divided into three groups to complete these exercises: Group A (Completion of two modules on the website in one day on site at Old North Church), Group B (Completion of three modules in off site, self directed

sessions over the course of a week), and Group C (Completion of three modules in on site sessions at Old North Church held once a week over three weeks).¹⁰²

The foundation evaluated these “think aloud” responses against three of Stanford University Professor of Education Samuel Wineburg’s principles on the framework for historical thinking. Professor Wineburg believes that history is about critical thinking, not memorization, and co-directs the Historical Thinking Matters project, a joint collaboration between Stanford University and the Center for History and New Media at George Mason University. This project teaches high school students how to think critically about history and shows them how historical thinking can be creative, rather than boring.

The three principles chosen by the foundation to evaluate the *Tories, Timid, or True Blue?* website were the following:¹⁰³

Sourcing: When a reader thinks about a document’s author and its creation

Contextualizing: When a reader situates the document and its events in place and time

Corroborating: A strategy in which a reader asks questions about important details across multiple sources to determine points of agreement and disagreement

¹⁰² NEH Final Performance Report. 5.

¹⁰³ Wineburg, Samuel. “Why Historical Thinking Matters.” Accessed 25 March 2009. Available at <http://historicalthinkingmatters.org/why/>

The foundation found corroboration to be the most commonly employed principle by teacher participants when using the website. Conversely, contextualization was the most difficult to apply. Ideas to improve this area include visual timelines, maps of colonial era Boston, and systemized color-coding, all to be further developed by Hyperstudio.

The teachers reported the John Pulling module the easiest to use (72% of participants said they were “very likely” or would “definitely” use this module in planning their classroom history lessons). One of the respondents stated that she liked the Pulling module best because “I feel like I live in the ‘secondary source’ side of history.”¹⁰⁴ In fact, the Pulling module is built from more secondary source materials than the other modules.

The teacher’s statement is a concern for historic preservation and site management. Why does this teacher feel like she “lives” in the secondary source side of history. Why are primary sources or historic site visitations not part of her lesson planning? The prototype website is successful in letting both students and teachers realize that there is much more to history than what is written in their textbooks. Even if history through primary and authentic sources is new and therefore more difficult to work with, the website succeeds in exposing this additional form of learning to new audiences. The Old North Foundation is thinking about how to bridge the gap between history in books and history through physical fabric and

¹⁰⁴ NEH Final Performance Report. 5

documents. Site visits encourage learning by appealing to multiple senses, which introduces new ways of critical thinking. Learning from textbooks and learning from historic sites should be complimentary, the one informs the other; it should not be an “either/or” consideration.

Another challenge was the lack of historical documentation on the Humphries family. The exercise was meant for users to think about history when there is a void of information. For example, we know that the Humphries were free black slaves and members of the Old North Congregation at the beginning of the Revolution. We also cannot find any mention of their names on soldiers’ listings. Does that tell us anything? While teachers loved this type of open thinking, it also unearthed challenges. While slavery in the South is commonly taught in American classrooms, slavery in the North is not. Teachers found themselves not able to identify the context in which the Humphries would be making decisions about loyalty and patriotism. As one participant stated, “You need to have some context. In order to understand the negative, you need to understand the existing positive.” The foundation decided that a solution to this problem would be to create an additional interface full of secondary materials related to late 18th century Northern slavery.

The study found that the website prompted more historical thinking skills than a site visit alone. Those who visited Old North Church after visiting the website “showed a significantly increased likelihood of applying historical thinking strategies

to their encounters at the Old North than they did at the Old South Meetinghouse.”¹⁰⁵ Measured improvements included increased time spend on interpreting artifacts on site, a reduction in generalized responses (such as “cool” and “neat”), and an increase in comments that indicate historical thinking. What those specific comments were are not reported. Perhaps more scientific reporting will be done in the future when the website goes live.

This kind of interactive learning should supplement history curriculum. Not only does it promote critical thinking, instead of rote memorization, but visiting historic sites also creates emotional responses that cannot be solicited from a textbook. Of the Pulling module, one teacher states, “it made me think differently than I’ve ever really thought about it before and I’ve never really thought about the person hanging the lantern.”¹⁰⁶ Authentic fabric elicits these types of realizations. History becomes more than just a fact; it becomes part of the greater human experience.

These interpretive exercises show the Old North Foundation’s commitment to creating a public value. While the SAT grant preserved the windows of Old North Church, the benefit of that funding extends beyond the physical fabric. If the structure of the church is sound, money and staff time can go toward interpreting the site’s historical events for the public. The professional approach of the Old North Foundation to study how interpretation can be at its most effective demonstrates a

¹⁰⁵ Ibid. 6.

¹⁰⁶ Ibid. 6.

seriousness in looking at Old North Church as a comprehensive historic site, not just a religious place where historic events occurred. The OLC ruled that federal funding for historic preservation grants is constitutionally permissible on the basis of neutrality, that a religious historic site is as eligible for historic preservation grants as a secular historic site. As Old North Church professionalizes their interpretation through digital technology and expert opinion to be at the same level as a secular historic site, such as Mount Vernon or Taliesin, they offer evidence that the most recent OLC ruling is correct.

CHAPTER 4: ELDRIDGE STREET SYNAGOGUE

Lower East Side, New York City, New York

Designated National Historic Landmark: June 19, 1996

Save America's Treasures Grant: 2003 for \$300,000

HISTORY OF THE SYNAGOGUE AND NON-PROFIT

The Eldridge Street Synagogue is illustrative of a duality of histories: religious and American social history. Located in New York City's Lower East Side, the Eldridge Street Synagogue is a living memorial to immigration (Figure 8). Built in 1887 for the Jewish Orthodox congregation Kahal Adas Jeshurun, the synagogue incorporates Moorish, Yiddish, Gothic, and Romanesque styles. This design offers a commentary on the balancing of immigrant culture to incorporate the Old World with the New. Its beauty and architectural detail, marked by elaborate stained glass windows and star-painted ceilings, immediately distinguishes it from neighboring synagogues. A giant rose window at the rear of the sanctuary borrows from Europe's grand cathedrals, but the designs are wholly Jewish. The 12 tribes of Israel are seen in the twelve roundels of the window; the five keyhole windows below it, the five books of Moses (Figure 9).¹⁰⁷

¹⁰⁷ Cole, Diane. "Joy on Eldridge Street." *Preservation*. March/April 2008. Accessed 12 May 2008. Available at <http://www.preservationnation.org/magazine/2008/march-april/joy-on-eldridge-street.html>.

This chapter illustrates how the Eldridge Street Synagogue offers visual evidence of the transition of the Lower East Side neighborhood from a community of Jewish immigrants to modern day Chinatown (Figure 10). As populations shifted, so did the health and use of the building. Boarded up by the 1950's as immigrants moved to wealthier areas, the dust covered sanctuary was rediscovered in the 1970's by a NYU professor. The newly opened secular Museum at Eldridge Street takes over after a successful restoration of the synagogue by the Eldridge Street Project. With museum status comes a professionalization of interpretation, including digital technology and a stronger capacity to share the synagogue with the larger New York community. This chapter will discuss how a non-profit moves from a mission of "saving" a historic place to a message of "maintaining," and the difficulties associated with that transition. Also discussed will be the methods used to create public benefit that result from this professionalization.

For many newly arriving Eastern European Jewish immigrants in the late 19th century life was marked by life in a crowded, disease-ridden tenement. This harsh reality was replaced every week by attending services in an expansive, light-filled sanctuary (Figure 11). This splendor would have been awe-inspiring to Jewish immigrants, who by 1910 numbered half a million in the Lower East Side neighborhood. While many of these new immigrants were synagogue members, the Eldridge Street congregation extended back to 1852 and included wealthier members.

In her recent book, *Landmark of the Spirit*, Annie Polland discusses how in 1886, President Sender Jarmulowsky organized a group of leaders to move the

congregation from a converted church to a new synagogue. While the materialization of the idea happened quickly, Polland writes, “the skills and contacts the synagogue leaders drew on to steer the process had been cultivated in their years as American bankers, plate-glass dealers, kosher sausage manufacturers, and real estate investors.”¹⁰⁸ After completion, critics found fault in the expense and lavishness of the architecture, citing that money should have instead been spend on establishing a Hebrew school or supporting labor movements.¹⁰⁹

Polland also comments on how the synagogue functioned not only as a worship space, but also as a place for community and debate. She writes, “People came to Eldridge Street to pray, certainly, but also to learn about issues and tensions within the Jewish community with respect to Orthodox Judaism and, more broadly, immigrants’ social and economic adaptation to New York City.” At the synagogue, immigrants confronted what it meant to be American.¹¹⁰

When the synagogue opened in 1887, it marked a change in how these immigrants worshipped. Before the opening, immigrants worshipped in “small, nondescript storefronts, partitioned tenement halls, and churches converted into synagogues.”¹¹¹ Peter and Francis William Herter, German immigrants and brothers, designed and constructed the synagogue. Despite being Catholic and having only

¹⁰⁸ Polland, Annie. *Landmark of the Spirit*. New Haven: Yale University Press (2009). 7.

¹⁰⁹ *Ibid.* 8.

¹¹⁰ *Ibid.* 10.

¹¹¹ *Ibid.* 1.

had four other commissions in the city, the Herter brothers knew the Lower East Side neighborhood from work on tenement buildings.

Polland believes that the Herters were exposed to Moorish design in Germany, where synagogues began to adopt the style in the mid-nineteenth century. She asserts that Jews were attracted to this style for both ideological and practical reasons. Ideologically, it was a style reminiscent of the Golden Age of Spain, a peaceful period in Jewish history. Practically, the Moorish style visually distinguished the synagogue from neighboring churches.¹¹²

As immigrants achieved success in business, they moved out of the tenements and into more prosperous neighborhoods. This migration, combined with the advent of more restrictive immigration laws, dramatically reduced the size of the congregation. By the 1950's the congregation numbered in the dozens. Leaders closed the main sanctuary to hold services in the basement. In 1971, New York University Professor Gerard R. Wolfe noticed the intricate façade of the Eldridge Street Synagogue when doing research for a course he was teaching. After contacting the sexton, Benjamin Markowitz, the two discovered the door that leads to the sanctuary had been nailed shut. No one had entered the main sanctuary since it had been closed for services twenty years previously.

In the March/April 2008 issue of *Preservation* magazine Diane Cole recounts what Wolfe saw when he first entered the sanctuary:

¹¹² Ibid. 23.

“I cannot forget how my hair stood up and goose pimples arose on my back...There was an immense brass chandelier hanging from the 70-foot tall ceiling with all its Victorian glass shades intact...Brass crown adorned the light fixtures on the walls, whose motif doubtless represented one of the three crowns of Jewish tradition.”¹¹³

Cole further details the state of disrepair found by Wolfe: thick dust piles, broken colored glass, peeling paint, exposed roofing, and an obviously distressed ceiling. In his own book, *The Synagogues of the Lower East Side*, Wolfe describes the entrance to the sanctuary as such (Figure 12):

“It (the sanctuary) is reached by passing through a small vestibule, whose rolled sheet-tin walls and ceiling are badly rusted, and climbing a creaky wooden staircase up to the main lobby, which is strewn with shards of smashed stained glass, chunks of fallen plaster, and the accumulated dust of over forty years.”¹¹⁴

He also comments on the lack of electricity and how the staircases of the women’s gallery look on the verge of collapse due to water damage (Figure 13). Despite the building being in such disrepair, Wolfe describes the experience of being in the upper sanctuary as “awesome.” He ponders how the seventy-foot chandelier, once lit by gas, must have flooded the sanctuary with soft light. He points out the Ark carved of

¹¹³ Cole, Para 2.

¹¹⁴ Wolfe, Gerard. *The Synagogues of New York’s Lower East Side*. New York: Washington Mews Books (1978). 43.

Italian walnut, which dominates the sanctuary, and the “fading trompe l’oeil paintings, barely visible on the cracking plaster.”¹¹⁵

Wolfe started Friends of the Eldridge Street Synagogue to start rallying support for restoration efforts. Roberta Brandes Gratz, a preservationist and journalist, furthered the cause by creating the Eldridge Street Project fifteen years later. Her efforts successfully obtained local and national landmark status for the synagogue. Gratz faced difficulty in securing funding for synagogue in New York’s Chinatown. She found herself arguing for “the many levels significance here (at Eldridge Street) – cultural, economic, religious, artistic, as well as in terms of preservation, conservation, and architecture.”¹¹⁶ After twenty years of fundraising and awareness campaigns, the Eldridge Street Project completed a \$20 million restoration in 2007. The Eldridge Street Project officially became the Museum at Eldridge Street in 2007 after receiving museum status by the New York Board of Regents. Wholly non-sectarian, the museum operates separately from the active, but small, congregation.

PUBLIC BENEFIT

The Lower East Side neighborhood is still marked by immigration, now predominately Chinese rather than Eastern European. As such, the balance between

¹¹⁵ Ibid. 44.

¹¹⁶ Cole, Para 12.

religious and social history is ongoing and still present in the museum's activities and programming. While the Museum at Eldridge Street keeps their grant applications private, administration shared that they used the 2003 SAT grant for restoration of the front façade of the building. This part of the building envelope is the most iconic and visible from the public way. Conservationists sealed the exterior, protecting interior paint finishes, furnishings, and windows from water seepage.

Guided tours focused on the section between American religious and social history are offered on the half-hour, Sunday-Thursday. Ticket prices are currently \$10 for adults, \$8 for students and seniors, \$6 for children (5-18), and free for children under 5. To encourage visitation during the colder months of January and February, Monday mornings are free and hot apple cider is complimentary. The tour begins in the basement, where services are still held. After learning about the early history of the congregation and how it was reflective of immigrant society, visitors are guided over to two interactive history tables and LCD screens. These tables immediately remove any feeling of a staid history lesson and engage visitors in learning both about immigrant culture in the Lower East Side and the architecture and restoration of the Eldridge Street Synagogue.

Created by Potion Design and named Limud Tables (Yiddish for learning), the exhibit won a 2008 Gold MUSE Award for Interactive Installation from the American Association of Museums. The judges' comments show an understanding of how interactive learning can build an appreciation for a historic site:

“Whether launching articles up to assemble on a front page or creating one’s own colorful stained glass window, the installation provides visitors with dramatic, fun experiences that promote an appreciation of the built environment and historical context of the museum and the surrounding neighborhood.”¹¹⁷

The judges particularly liked the “Make the Paper” exercise, in which visitors “push” articles and advertisements around the table to create a late 19th century Yiddish newspaper. These tables can be enjoyed as an individual or as a group and can be adapted for social or reflective experiences.

The first table, called “Lower East Side: Migrations & Encounters,” explores the 19th century neighborhood of the synagogue (Figure 14). The screen reads, “In 1900, the Lower East Side housed the world’s largest Jewish community. This interactive exhibit follows the great wave of East European Jewish migration to New York and explores the immigrants’ dynamic encounter with America.”¹¹⁸ For example, one of these buildings is the 1891 Educational Alliance Building, located at 197 East Broadway. One of the first settlement houses established to help Jewish immigrants assimilate; the Educational Alliance now provides community services to people of diverse ethnic and religious backgrounds. Juxtaposed next to a three dimensional image of the Educational Alliance Building is a description:

¹¹⁷ “2008 Muse Award Winners.” Accessed 12 February 2009. Available at http://www.mediaandtechnology.org/muse/2008_interpretinstall.html.

¹¹⁸ The author took a tour of the Museum at Eldridge Street on 9 February 2009.

“Within a few years of the Educational Alliance’s 1891 opening, immigrants and their children’s footsteps had worn down this majestic settlement house’s marble steps. They entered daily from 9am to 10pm, in search of English classes, civic classes, music lessons, art instruction, and even summer camp. A rooftop garden provided refuge from the congested neighborhood, a gym offered an outlet for pent-up energies, and a well stocked library offered literary travels.”

By learning about the buildings that made up the community of the congregants at the synagogue, visitors develop an understanding of the challenges faced and goals strived for by those congregants. The three-dimensional touch screen building map shows the context of how these structures interacted and created that community. By knowing where these immigrants lived their lives, we can better understand how they lived their lives.

The second interactive history table details the architectural plans and restoration of the Eldridge Street Synagogue. The first screen shows the façade, next to a photograph and physical description, which details how the Stars of David contrasted with the more plain storefronts of the neighborhood. From here, the visitor can move to look at three dimensional drawings of the main sanctuary (Figure 15). Another screen documents how the decorative paint was deteriorated when restoration began. Dirt and water seepage had ruined some sections of the sanctuary and left laths exposed. Insensitive additions of blue and hot pink paint were added in the 1940’s. Paint restorers found three different paint layers and decided to restore the scheme to its 1918 colors and patterns. If visitors want to learn more about the paint restoration, they can continue to the next screen, which

shows the tools used. The bottom screen allows visitors to use a digital scalpel to scrape away old paint. Other interactive activities pertaining to other restoration efforts are available to visitors to explore using the history tables.

Restoration efforts are further detailed for visitors in the Upper Women's Gallery of the sanctuary (Figure 16). Several severely deteriorated layers of wall construction, including lathe, plaster, and brick, are preserved how they were found before restoration. It is quite startling to see the difference between this deterioration and the beauty of the restored sanctuary. The visitor gets a very real impression of how much funding and professional expertise were needed to bring the synagogue back from the brink of collapse.

There is an exhibit at the rear of the Women's Gallery that presents the different areas of restoration. These areas include Wood, Paint, Infrastructure, Lighting, Façade, and Green Restoration. Panels show photos of the actual restoration and describe how success was achieved in each area. The Green Restoration panel shows how important sustainability is to preservation, including how recycled blue jeans were used as insulation. Says Architect Walter Sedovic, "The immigrants who built Eldridge Street located the synagogue near forms of public transportation, used local labor and long-performing materials, and made the most of natural light and ventilation. They were green without trying."¹¹⁹

¹¹⁹ Interpretive Display, Museum at Eldridge Street. 9 February 2009.

These interactive exhibitions encourage visitors to inquire about both the past and present of life in the Lower East Side synagogue. On the tour attended by the author, visitors included Turkish exchange students, New York City locals, and adults from London who had visited Eldridge Street during restoration and were eager to see the finished product. The tour guide fielded questions about the daily life of 19th century congregants, stories of New York immigration, programming and events at the museum, and the socioeconomic makeup of the current neighborhood. Specific design decisions made during restoration encourage visitors to return to the 19th century, most notably, the preservation of the floor board grooves, made by the rocking motion of congregants during services. This kind of tactile experience goes a long way in making history tangible.

There is both a historical and contemporary feeling of community at the Eldridge Street Synagogue. Architectural details show how immigrants tried to embrace the American experience while still being faithful to their Eastern European roots. The Museum at Eldridge Street is currently in a state of transition. Now that a successful restoration is behind them, emphasis is now on expanding public education programs. Executive Director of the Museum at Eldridge Street, Bonnie Dimun, makes education a priority with a series of events and programming.¹²⁰ In addition the architectural and Lower East Side interactive history tables, the museum is working to obtain funding that will allow for a table dedicated to the significant

¹²⁰ Dimun, Bonnie. Executive Director, Museum at Eldridge Street. Personal Interview. 9 February 2009.

amount of oral histories collected from congregants. This funding will also allow for the digitization of archives, which have been accumulating over the synagogue's 100 year history.

This transition from endangered preservation site to success story has made fundraising challenging. For over twenty years, the Eldridge Street Project campaigned with a message of saving the remarkable synagogue and history built within its walls. Now, funders find themselves questioning why they should continue supporting the museum, having already made large gifts. The urgency that so effectively motivated those gifts is no longer a factor. Board and staff are working to create a new mission built not around saving, but maintaining. Dimun stresses to potential donors the importance in ensuring that the deterioration of the Eldridge Street Synagogue never happens again.

This will not be the first time the museum struggled to convince funders of the unique opportunity that exists between history and religion at Eldridge. When fundraising first began to save the synagogue, potential donors asked, "Why contribute for the restoration of a synagogue whose population is no longer there? Why support a synagogue in Chinatown?" The answer: Eldridge Street Synagogue is an important example of how neighborhoods change. In 100 years, the synagogue has seen the neighborhood change from an Eastern European Jewish population to Irish, Italian, and Chinese families. The story of American immigration has passed through the halls of the Eldridge Street Synagogue. The telling of that story is a clear public benefit.

As neutrality is important in church-state relations, so is a balance between the religious and secular at the Eldridge Street Synagogue. Dimun stresses the importance of mutual respect and communication between both parties. There is a constant potential for grey areas when sensitivity is required. For example, if a member of the congregation wants to hold a prayer service during the week, Dimun has to carefully explain that those times are reserved for the museum's secular activities. Anyone is welcome to sit and quietly reflect during opening hours, but there cannot be organized prayer. Out of respect for the congregation, the museum requires groups that rent out space for events to keep to a kosher menu.

In addition to balancing the museum's event and activities with a worship schedule, Dimun also incorporates the surrounding Lower East Side community into museum programming. One of the most popular events is titled "Egg Rolls and Egg Creams Block Party." This free event celebrates both the historical immigrant and contemporary Asian populations of the Lower East Side (Figure 17). Egg creams, a 19th century fountain drink made of chocolate syrup, milk, and water, is often associated with the history and lore of New York City. In addition to the egg creams and kosher egg rolls, the festival has traditional Yiddish Klezmer music, Chinese opera, Hebrew and Chinese scribal art, Yarmulke making, and other arts activities for children.

Sponsored in part by grants from the New York State Council on the Arts and the National Endowment for the Arts, the annual event is highly attended by both neighborhood residents and the larger New York community. Media coverage of the event brings further attention to the Museum at Eldridge Street and its mission of

presenting the history and culture of Jewish immigration and comparing it to modern, diverse cultural communities. Bill Egbert of the New York Daily News writes, “The mouth-watering Chinese and Jewish delicacies...brought the two communities together for the day on Eldridge St. in the heart of the ever-changing neighborhood.”¹²¹

The language of the Egg Rolls and Egg Creams program, excerpted below, further communicates this message of parallelism between immigrant cultures:

“The Jewish and Chinese may live largely separate lives, but these two groups sought similar things in America; freedom from persecution and prejudice, and opportunities to advance economically and socially. They share a system of strong communal organizations and mutual self-help and the challenge of how to maintain their culture in the face of rapid change. This festival pays tribute to some of the things that people from different backgrounds do to stay connected – particularly the practice of traditional language, arts, music, and dance.”¹²²

This message of tolerance and community extends beyond the museum’s programming. On President Obama’s Inauguration Day, a local school that serves low-income students did not have the facilities to stage a large viewing. Eldridge Street Synagogue invited these students, as well as other members of the community, to share in the day’s excitement. In many ways, the spaces of the

¹²¹ Egbert, Bill. “Eggcellent Adventure: Jewish, Chinese faves hit spot.” *The New York Daily News*. 12 June 2006. Promotional one-pager from the Museum at Eldridge Street. Accessed 9 February 2009.

¹²² Program from the 2006 Egg Rolls & Egg Creams Block Party program. Available from the Museum at Eldridge Street.

Synagogue act as a community center, a topic that will be discussed in further detail in the Christ Church, Philadelphia case study.

The Museum at Eldridge Street also partners with the city's other cultural institutions focused on immigration. In cooperation with the Tenement Museum and Ellis Island, they developed a marketing campaign called "Follow in their Footsteps, A Journey of Discovery," focused on the immigrant path of arrival in the late 19th and early 20th centuries (Figure 18). Visitors are invited to "Look into the past, touch the present and learn what the future holds for immigrants today by visiting three unique institutions where history and your story come alive with every step."¹²³

This path starts at Ellis Island, the famous federal immigration center that was many immigrants' first introduction to America, where visitors are invited to "Come In." This experience is followed by "Move In," at the Lower East Side Tenement Museum, where visitors can step back in time to 97 Orchard Street during the time period of 1863-1935. Restored immigrant tenement apartments show visitors what it was like for the 7,000 people who lived at this address. Finally, visitors can "Join In" at Eldridge Street Synagogue to learn about the culture and community of Jewish immigrants. As Ellis Island and the Tenement Museum are far more widely known than the Eldridge Street Synagogue, this marketing strategy is highly effective in reaching a broad audience. Visitors benefit by getting a full and coordinated educational program about immigration history in New York.

¹²³ "Follow in their Footsteps brochure." Available from the Museum at Eldridge Street.

The Museum at Eldridge Street also offers programs for school children (Figure 19). The brochure for these programs divides education into four themes: Immigration, Architecture, Judaism, and a Lower East Side Walking Tour. Immigration asks students to think about what traditions immigrants brought with them to America and uses the Eldridge Street Synagogue to highlight the opportunities and challenges faced by these New Americans. The Architecture section asks how buildings can tell us about what a community values. Students have the opportunities to learn how to “read” a building, including examining paint patterns, stained glass windows, and Victorian lighting methods. In Judaism, students are able to learn about the Jewish culture, as evidenced by what they find in the synagogue. They are able to explore Jewish ritual and tradition through food, games, and dramatic play. On the Lower East Side Walking Tour, students look for clues to the neighborhood’s past. Stops include visits to buildings that have been influential in the community’s history, including the Educational Alliance, Jarmulowsky’s Bank, and the Jewish Daily Forward.¹²⁴

These interactive programs show that a synagogue is not only illustrative of religious history, but can teach students and the public about how a neighborhood changes and what was important to inhabitants throughout those changes. Students learn about Jewish culture, but also about how to look at a building and what those visual clues can tell us about society. Walking and looking at physical fabric is never a wasted exercise, if only for the opportunity to learn how to think differently or

¹²⁴ “School Programs brochure.” Available from the Museum at Eldridge Street.

experience a place in a new way. These skills are so important for not only thinking critically about history, but for analyzing the places, cultures, and public policies that affect our own lives.

Vice President of Institutional Advancement, Eva Bruné, has been with the Museum of Eldridge Street since 2002, when it was still the Eldridge Street Project.¹²⁵ She confirms that diligent reporting on items such as matching status, contractors and preservation professionals, and the percentage of work finished, among many other categories, is a requirement of the Save America's Treasures grant. She also confirms that the development campaigns of the museum are in a state of transition, as the message has moved away from "saving" to "maintaining." This transition will take time and will evolve with the new generation of stakeholders. Braun sees this new campaign as emphasizing that maintenance of the synagogue will protect donors' original investments. Increased educational programming will accompany new avenues in fundraising strategies.

In the field of development for over 35 years, Bruné states that her current position is her most challenging because of the dual nature of the synagogue and the constituency it serves. The museum does not have many corporate sponsors because they tend to shy away from supporting any organization that can be tied to religion. Some private foundations are also hesitant to provide funding. Bruné explains that the museum was ineligible from a grant from the Kresge Foundation

¹²⁵ Bruné, Eva, Vice President of Institutional Advancement, Museum at Eldridge Street. Personal Interview. 10 March 2009.

because the non-sectarian and religious entities, though separate, share the same space. Yet, individuals and other foundations are drawn to supporting an organization that manages and creates educational programming for a historic building still used for its original purpose. Bruné believes that fundraising for preservation, especially in the case of the Eldridge Street Synagogue, is really about preserving and advocating for a legacy. Government, foundations, and individuals are inclined to believe in and support this legacy because through restoration, they can see how their money is being spent and the reward in that restoration's completion.

As at Old North Church, the Museum at Eldridge Street is committed to creating a historic site based on professional methods of interpretation. The guided tours and interactive history tables are compelling tools for viewing Lower East Side history. The presentation of the restoration is an added interpretation not seen at many historic sites, religious or secular, and provides further education to the public about how we preserve those places we find to be culturally significant.

While the SAT grant funded the aesthetic and historical value of Eldridge Street Synagogue's façade, the secular administration uses the preservation of the building to create community. The story of immigration and the synagogue's restoration are highlighted by musical performances, activities for school children, and neighborhood events. These programs are not specific to preservation, but are connected to wider social goals of community-building and cultural awareness. These social values are not religious and provide a clear public benefit. This sense of community translates to financial support from individuals, foundations, and

government who see the public benefit offered by Eldridge Street Synagogue's place as an anchor of the Lower East Side, allowing the Museum at Eldridge Street to continue in its mission of education and interpretation.

CHAPTER 5: CHRIST CHURCH

Old City, Philadelphia, Pennsylvania

Designated National Historic Landmark: April 15, 1970

Save America's Treasures Grant: 2006 for \$350,000

HISTORY OF THE CHURCH AND NON-PROFIT

With its close proximity to Independence Hall and the Liberty Bell, Christ Church is a major tourist attraction in Philadelphia (Figure 20). Founded in 1695, the current building dates to 1744. While William Penn wanted to establish a colony for Quakers under the tenets of religious freedom, his original grant from the crown included a provision for the bishop of London send his own preachers “without molestation,” thereby founding Anglicanism in the form of Christ Church.¹²⁶ The building is known today at “the Nation’s Church” because of the Revolutionary leaders who attended services, including Benjamin Franklin, George Washington, John Adams, and other members of the Continental Congress. The architect of the current building is unknown, but many attribute the role to Dr. John Kearsley, who headed the building committee. Master builder Robert Smith completed the iconic

¹²⁶ Moss, Roger W. *Historic Sacred Places of Philadelphia*. Philadelphia: University of Pennsylvania Press (2005). 40.

200 foot steeple in 1753-54, making Christ Church the tallest structure in Philadelphia at the time (Figure 21).¹²⁷

Founded in 1965, the Christ Church Preservation Trust was created to “ensure the preservation, restoration, and maintenance of historic Christ Church, Neighborhood House, and the Christ Church Burial Ground.”¹²⁸ The current Executive Director, Donald Smith arrived in 2002 and his arrival started a period of professionalization at the non-profit.¹²⁹ At that time, educational and interpretive programming was still a responsibility of the religious entity. Those responsibilities transferred to the Trust in 2004, along with all tourism programs. While it is outside of the preservation mission of the church, it was argued that tourism provides funding for building maintenance.

Smith states that either the business structures of the various stakeholders or their respective missions need to change. This past summer, Smith worked with the Trust board and church leadership to create a new business model more entrepreneurial in nature. Smith is looking toward other congregations that have adopted entrepreneurial models, including Manhattan’s St. Bartholomew’s Episcopal Church, who opened the restaurant Inside Park on their campus in October 2008.

¹²⁷ Ibid. 45.

¹²⁸ “Preservation Trust.” Christ Church website. Available at http://www.christchurchphila.org/Historic_Christ_Church/Preservation_Trust/62/. Accessed 20 March 2009.

¹²⁹ Smith, Donald. Executive Director, Christ Church Preservation Trust. Personal Interview. 19 March 2009.

In these meetings, leadership from both entities identified what functions are not getting accomplished, are being done by the wrong entity, or are being unnecessarily duplicated. The church and trust currently share many administrative services; Smith would like to find a way to separate these functions. Currently, all of these services are under the church, and the trust pays a fee to use them. For example, the church owns the parking lot and the rental of both the church and Neighborhood House, a large 1911 building used for community groups (Figure 22). Smith argues that these are actually business, and not religious, functions. These activities fall outside the mission of the church.

In the current structure, the Church Vestry presides over both Christ Church and the Christ Church Preservation Church (Figure 23). At Christ Church, the Rector presides over Parish Programs (3 full-time employees); Operations (1 full-time employee for printing, the website, accounting, and human resources); Property Management (2-3 full-time employees for rentals, parking lot and property, housekeeping, and campaign expenditures); and Fundraising and Endowment (the church stewardship campaign, planned giving, and endowment fundraising and management).

On the side of the Christ Church Preservation Trust, the non-profit board presides over the full-time Executive Director, who oversees Campaign Fundraising (1 full-time employee); Annual Fundraising (Corporate Events, Annual Appeal, and Board Giving); the Archives & Artifacts (1 paid consultant); and Tourism (3 full-time employees). This current relationship shows the blending of responsibilities pointed out by Smith. While the church owns the archives, the Trust, whose mission is

building preservation, is responsible for their organization and conservation. Right now both entities are doing fundraising, but only the Trust has professional capacity with full-time employees. At the church, the fundraising is coordinated by parish volunteers who have little to no experience with non-profit administration.

A plan Smith discussed with the board and vestry this summer would have taken the church and made it a completely religious entity. The Trust would have retained the tourism activities and gained operational responsibilities, which Smith argues would be better suited for Trust's professional staff. Currently, the parking lot is leased to a parking firm by the church, but Smith questions whether this use is best for the site and the overall financial health of the campus. No one involved in the parking lot's management has a business background. Smith's new structure would have created a property management division under the Trust, which would follow a more business-like strategy.

The Potential Structure shows the Vestry presiding over the Parish Council, the newly created Christ Church Foundation Board, and the Christ Church Preservation Trust Board (Figure 24). In this model, the Parish Council takes on all of religious responsibilities of Christ Church, and the Rector oversees all Parish programs. One Executive Director oversees both the Foundation and the Trust. Under the Foundation, fundraising initiatives would include both the church and Trust, including one or two full-time employees for church stewardship, capital campaigns, Trust annual appeal and board giving, foundation and corporate giving, planned giving, donor relations and reporting, and endowment management. The restructured Trust

maintains Tourism responsibilities, gains Operations and Property Management, Preservation, Archives and Artifacts, and Community Relations.

The board and vestry found this plan to be over complicated and argued it would too much for a single Executive Director. They also voiced concerns over cost to manage and could not see themselves selecting a single entity in which to be involved. The planning is on hold as the Trust is working on other projects. As active religious historic sites already have difficulty securing grants, not only from the government, but also from foundations, corporations, and individuals weary of being connected to religion through their donations, would this new structure of integrated fundraising have only increased this difficulty? Smith says no. He argues that raising funds for the secular Trust should not be a problem, as there are clear pathways for spending and reporting.

While the planning is on hold, the communication and willingness of all parties involved to discuss a new structure is a good sign of the healthiness that exists at Christ Church. Having the capacity to discuss a more business-like model to increase efficiency is indicative of an already existent professionalism. Strategic planning shows that the organization is able to focus on both present and future initiatives. The Trust's professional staff is a major reason for this organizational capacity. Before the Trust took over responsibilities for tourism in 2004, the church was losing \$80,000 year. Now, the Trust is running a surplus; over 80% of the operational budget derives from tourism. Successful tourism provided a platform from which to launch a \$10 capital campaign, which has secured \$6 million to date.

Smith cites the ability to manage a capital campaign as a direct result of a professionalized non-profit.

Much of the impetus for the capital campaign came from two events: a 2003 fire in church tower room made it clear that an advanced fire protection system was needed and a 2004 20 year plan that detailed a maintenance schedule for the physical structures on the campus. The 2006 SAT grant was made in support of this fire system and building envelope conservation. The \$2.5 million project was scheduled to be completed from 2006-2008.

An August 2008 summary report confirms that these projects were completed in April 2008.¹³⁰ In 2005, Christ finished installing new water and electrical lines to support the fire safety system and a “water curtain” to protect the wood steeple. From March to November 2007, scaffolding covered the exterior structure of the church for conservation work to prevent further water damage and repair existing deterioration. This conservation work included masonry repointing and the removal of deteriorated bricks; stone masonry; roofing and flashing work; the complete removal of paint from the cornice; and the removal, restoration, and reinstallation of window sashes. For the fire system, conservators faced an additional challenge with having to work around the liturgical church schedule. They had to finish installation between Christmas 2007 and Easter 2008 to ensure that interior scaffolding would not be present during these religious celebrations (Figure 25). This work entailed a

¹³⁰ “Preservation of Historic Christ Church Summary Report – August 2008.” Available from Christ Church Preservation Trust.

new sprinkler system and fire pump, and specialized systems for the sanctuary, lower steeple, and upper steeple. The entire network communicates with the central security room of Independence National Historic Park, of which Christ Church is an official component (but not managed by the NPS).

PUBLIC BENEFIT

The 2006 SAT application defined the Public Benefit of Christ Church as the following:

“The project will guarantee the survival of this National Historic Landmark that continues to serve its original function and, after more than three hundred years, still effects social, economic, and cultural enrichment in the community. Tourists (300,000 a year), community groups (150 groups a year), parishioners, and all who see this church as a landmark for Philadelphia, will benefit.”¹³¹

Public benefit can go beyond sharing the importance of history and architecture through authentic physical fabric. Like many religious places, Christ Church is a major part of its community, offering services and providing space that would otherwise be unavailable. Partners for Sacred Places, Inc., located in Philadelphia, is a national non-profit that works to show how older religious places sustain communities through space-sharing and civic programming. In their 1998 publication *Sacred Places at Risk: New Evidence on How Endangered Older Churches and Synagogues Serve Communities*, co-founders Robert Jaeger and Diane

¹³¹ “Project Summary: Christ Church FY 2006 Federal Save America’s Treasures Grants – Application.” Available from the Christ Church Preservation Trust.

Cohen studied over 100 congregations in six cities.¹³² They found that historic religious places are not only vibrant community centers, but that they are also struggling to find funding to keep up with accruing maintenance costs.

Some of Jaeger and Cohen's key findings include the following: of those religious places surveyed, approximately 93% open their doors to the community in some manner; these congregations host 76% of their community services in their own buildings; and the average congregation provides over 5,300 hours of volunteer support to community programming (the equivalent of two and a half volunteers working year-round).¹³³ It is clear that many of these important services, from soup kitchens to after-school programs, would not be possible without the involvement of these historic religious places, especially in older neighborhoods like Old City, where large enough buildings to house such activities are few and far between. These activities benefit the whole community, not only congregations. In fact, Jaeger and Cohen found that 81% of community programming beneficiaries came from outside of the congregation.¹³⁴ In his letter of support to the SAT program on behalf of Christ Church, Jaeger singles out the church for its century's long role in community development, both for using its buildings to full capacity and for raising awareness about historic preservation.

¹³² Jaeger, A. Robert and Diane Cohen. *Sacred Places at Risk: New Evidence on How Endangered Older Churches and Synagogues Serve Communities*. Partners for Sacred Places, Inc. (1998). Accessed 7 June 2008. Available at http://www.sacredplaces.org/pdf/places_at_risk.pdf.

¹³³ Ibid. 5.

¹³⁴ Ibid. 9.

Ram A. Cnaan has specifically studied the role of Philadelphia's congregations as providers of social services. In his book, *The Other Philadelphia Story: How Local Congregations Support Quality of Life in America*, Cnaan studies the community benefits offered by 2,120 congregations in Philadelphia. He writes,

“At a time when the tax burden is increasing and the local revenues are declining, someone has to chip in and do more of the work needed to maintain quality of life. Religious congregations and other faith communities shoulder a considerable portion of the burden of the care for the needy people in America, and Philadelphia is no exception.”¹³⁵

Cnaan also writes that while many of these community services are small in scope, combined, they take on the effect of a large social movement. While congregations should not be viewed as a replacement for government and private professional services, they should be looked at as an important complimentary partner.

Christ Church, one of the churches studied in Cnaan's book, is committed to its surrounding community. Last year, Christ Church partnered with the Arden Theatre Company next door in a production of Thornton Wilder's *Our Town*. For the wedding scene in Act II, the Arden audience walked across the street and into Christ Church. A different Philadelphia choir performed at every showing and three people were chosen to read special lines in an effort to further involve the local community.

¹³⁵ Cnaan, XVI.

The readers of these lines included Philadelphia politicians, local television and radio personalities, teachers, veterans, and other civic leaders.¹³⁶

A major upcoming project for both the Trust and church is the renovation of Neighborhood House, a property adjacent to Christ Church that acts as a community center for the surrounding Old City neighborhood and houses the church's support systems, including heating, electrical, and staff (Figure 26). Originally built in 1911 as a settlement house, the renewed vision for Neighborhood House includes:

Community Programs for 165 community groups

Church and Trust functions (classrooms, offices, and meeting spaces)

Theatre and Dance (it is anticipated that local companies will use the new space 200 nights a year)

Expansion of the archives

Handicapped Accessibility

Creation of a new exhibit, The Story of Religious Freedom, to tell stories that go beyond Christ Church to tell the story of American religious history

Christ Church will use funds already raised through the capital campaign; additional funds will come from a \$2 million loan. The archives are already packed, staff will start moving out in May, and ground will break in June to begin the full renovation. James Timberlake, Chair of the Trust Board and partner in the

¹³⁶ Arden Theatre Company Press Release. "Arden Theatre Company in association with historic Christ Church presents Our Town in Old City." 22 June 2008. Available at http://www.ardentheatre.org/news/2008_0425.html.

architectural firm KieranTimberlake Associates, argues that the modern day Christ Church cannot exist without Neighborhood House, both for its presence and the services it provides. He states, “The effort and energy to make the repurposing and renewal happen will complete the overall tactical vision to provide a place of worship AND outreach, a place of reflection AND community. Together, each renewed, Christ Church with Neighborhood House becomes whole again.”¹³⁷

This renewal that serves the community is not possible without significant funding. Currently, the Save America’s Treasures program is the only channel for historic religious places to receive preservation grants from federal funding. As has been recounted, the process for securing this funding was not easy. By not more broadly supporting preservation for historic religious properties, the government is also not supporting these social programs. The SAT guidelines are very strict; funding is only available for those places, like Christ Church, that have the utmost significance to American history and architectural excellence. However, there are many religious places, over 2,000 in Philadelphia alone, that offer these same social services. These places are not nationally significant, but they have mounting physical maintenance and debt that the congregation does not have the professional capacity to support. While the separation of church and state is undeniably important, these social programs are not religious. If the historic religious places

¹³⁷ “Neighborhood House: A Bridge to the Community for the Past, Present and Future.” *Preservationist* (newsletter of the Christ Church Preservation Trust). Fall 2008. Available from the Christ Church Preservation Trust.

collapse, either physically or financially, so do these programs, which would have a devastating effect on urban neighborhoods.

In addition to supporting the community, Christ Church and Burial Ground, like Old North Church and Eldridge Street Synagogue, offers public tours. At the church, the tours of the sanctuary can be informal or organized group tours. Visiting the church is free, as at Old North, church leadership is uncomfortable with the idea of charging admission. The Trust would like to change this, but as enough income is generated from other opportunities, there will be no adjustments to this policy in the foreseeable future. There are admission charges at the Burial Ground; \$1 for students, \$2 for adults, and \$10 for groups up to 25. There are tours operated on the hour, and tour themes are updated annually.

This year's tour is the theme of artists and musicians, including the newly discovered burial site of Philip Syng, a silversmith and maker of the ink and quill stand used for the signing of the Declaration of Independence (Figure 27).¹³⁸ Visitors are invited to follow the tour guide around these selected graves, ending with Benjamin Franklin. A challenge to interpretation at the Burial Ground is that most people want to quickly see Franklin's grave and leave (Figure 28). Observing the site for a short period of time shows people paying their admission, and walking quickly over to Franklin's grave for a photo, and throwing a penny (a tradition of good luck and in remembrance of his famous saying, "A penny saved in a penny earned").

¹³⁸ The author took a tour of the Christ Church Burial Ground on 27 March 2009.

Visitors then leave promptly. The static presentation of the tour does not help this problem. The only props used in the current tour are laminated photographs periodically held up by the tour guide. Also, in 1858, Franklin's descendents installed an iron gate in the brick wall of the burial ground, so various Philadelphia tour groups do not have to pay admission to see the grave. Research and investment in technology, either through interactive learning at Eldridge Street Synagogue or an educational website at Old North Church, might be a way to create more interest about the Burial Ground as a whole.

Neil Ronk, Senior Guide and Historian, states that there are different dynamics at the Church and Burial Ground. Both staff and tourists approach the two sites differently.¹³⁹ The church is "a prism of the present," which is not so at the Burial Ground. The church is still an active religious place, just as it was historically, and there is an emphasis on the living nature of the institution in its interpretation. At the church, there is more freedom to talk about many different things, as you are not limited to topics about the people buried at the Burial Ground.

There is a connection between American social history and church life; the church allows for a presentation on the social history of Philadelphia. For example, Ronk recounts how a group of graduate students studying yellow fever visited Christ Church. Ronk was able to look in the church's burial records to find who died of

¹³⁹ Ronk, Neil. Senior Guide and Historian, Christ Church Preservation Trust. Personal Interview. 19 March 2009.

yellow fever during the time in which the graduate students were studying. An American church's history is not limited to the religious.

The authenticity of the Church and Burial Ground acts as an introduction to ask questions about many aspects of Revolutionary America, including the role of women. In the burial record, a woman's name is not always recorded, instead appearing as "Woman of Colonel Smith." Visitors are prompted to ask why that was and to further explore what life was like for women during the Revolution. Asking these questions, and the subsequent critical thinking, is one of the main points of studying history. Ronk has other ideas for interpretation. He believes that Benjamin Franklin obscures as much history as he enlightens. There are many statues of Franklin in Philadelphia, but where are the statues of President George Washington in his own capitol? Ronk would like to see an interpretation of Philadelphia as the Federal City during the 1790's. After freedom comes governance. He asks, "Why aren't we telling that story also?" School children who come to visit Christ Church and the Burial Ground know the signers of the Declaration of Independence and Constitution but cannot name their states' first Senators.

According to Ronk, approximately 80% of visitors only want to see where Franklin is buried or where Washington sat. However, what the tour guides really want is to create an open discussion. Ronk states, "The fun of history is in its complexity." The problem with site management is that many people just want the highlights, the winners and the losers. The tour guides are very frustrated by checklist mentality and it is far more rewarding to talk with people who share a passion for history or people who are open to developing an interest.

Recently, a fourteen year old boy from London visited Christ Church. He was interested in learning about the British soldiers buried at the Burial Ground. Finding himself intrigued, Ronk kept in touch with the boy through email. On lunch breaks, Ronk searched the church's archives on British soldiers, emailing the boy with the information he found. The boy started writing letters to regimental organizations in Britain to try and gather more information, and he now thinks he has tracked some of these soldiers to the 1777 Battle of Germantown. After visiting Christ Church, a young boy is now interested in the connections between British and American history. It is evident that Christ Church has public benefit.

As the Christ Church Preservation Trust professionalized, the capacity for education and interpretation increased. The more visitors that are able to experience the church and burial ground, the more public value is created. The professional capacity of the Christ Church Preservation Trust to work with the religious entity to revisit and improve upon their management structure shows a dedication to the stewardship of Christ Church and the Burial Ground and the sharing of the cultural significance of those sites with the public.

CHAPTER 6: WHY FEDERAL FUNDING FOR HISTORIC RELIGIOUS PLACES SHOULD CONTINUE

The Supreme Court has found that government can support sectarian institutions, but not sectarian activities. Historic preservation for properties with historic significance is a secular aim. The presence of religious value at a place does not negate its secular value. The SAT grant is evaluated based on the neutral criteria of historic and aesthetic value and funding is used to preserve a historic site to publicly interpret its role in the American identity. Old North Church, Eldridge Street Synagogue, and Christ Church demonstrate this public value through tours, interactive technologies, exhibits, and events. As stated by Paul Edmondson, this issue is a matter of fairness.¹⁴⁰ It is discriminatory not to allow these secular activities to be federally supported by the historic preservation of the sectarian institutions in which they occur.

Those historic religious places that have professional non-profit organizations to manage these public funds and activities are best able to demonstrate a clear public benefit through interpretation and education. The division of responsibilities between the religious and the secular is not only supportive of constitutional principles, but it is good site management. Institutions can no longer be assumed to be pervasively sectarian; analysis of the activities of the non-profits studied in this thesis show only secular programs and activities. Lupu and Tuttle ask if a building

¹⁴⁰ Edmondson, Paul. Email to the author.

can be separated from its use, but what if there are multiple uses? Stakeholders and management decide when specific uses take priority, and in the cases studies, a professional infrastructure and communication make these decisions most effective. This thesis finds that yes, in the cases of multiple uses; a building can be separated from its activities. If uses can be separated, so can the funding that supports those activities and programs in question. The federal government should continue to allow religious places to be eligible for historic preservation grants because the activities that stem from that preservation provide a clear public benefit.

SAN MIGUEL ARCÁNGEL AND THE CALIFORNIA MISSIONS

In 2003, U.S. Senator Barbara Boxer (D-CA) sponsored the California Missions Preservation Act (HR 1446).¹⁴¹ This Act, which both the House and Senate passed and President Bush signed, would have given \$10 million over five years to the California Missions Foundation, a non-profit dedicated to the restoration and repair of the missions. The 21 missions included in the act are remnants of Spanish colonialism and date from 1769 to 1823. The Catholic Church owns 19 of these missions, which are active and hold religious services.

Two days after President Bush signed the Act on November 30, 2004, Americans United for the Separation of Church and State filed a federal lawsuit,

¹⁴¹ Information on the California Missions Preservation Act is available on Senator Boxer's website at http://boxer.senate.gov/senate/b_1306.cfm

citing the violation of Church and State.¹⁴² While the lawsuit has since been dropped, no money has of yet been appropriated through the Act. If such appropriation does occur, Americans United for the Separation of Church and State vow to refile. The 2003 OLC opinion only applies to the Save America's Treasures program, yet there are many properties ineligible for this program that nonetheless have irreplaceable architectural and historical value. While still religiously affiliated, more than 5.3 million annual visitors travel to the missions for their historic significance, not to attend religious services. In addition to these visitors, the study of the missions is required curriculum for 4th grade students in California.

Further complicating the issue is that preservation grants for active, historic, religious properties are prohibited at the California state level. The strictly interpreted state constitution cites the separation of church and state as the reason for not allowing these preservation grants. So while policy has changed at the federal level, many states have not followed this policy change. The California Missions Foundation was recently denied funding under the California Cultural and Historical Endowment.¹⁴³ The agency was created under Proposition 40 to fund the state's historic sites. The language of Proposition 40 specifically mentions the California Missions as possible beneficiaries of the endowment. However, the attorney

¹⁴² Mahaney, Stacey L. "The California Missions Preservation Act: Safeguarding Our History or Subsidizing Religion?" *American University Law Review*, Volume 56. 1524.

¹⁴³ Chawkins, Steve. "Is This a Mission Impossible?" *The Los Angeles Times*. 11 May 2006. Accessed 21 March 2009. Available at <http://www.missionsofcalifornia.org/news/051106.pdf>

general's office denied the funding, citing the illegality of using public funds to advance religion.

On March 9, 2004, P. Daniel Smith, Special Assistant at the NPS, appeared before the Subcommittee on National Parks, Senate Committee on Energy Resources, concerning H.R. 1446 to argue *against* the California Missions Preservation Act. Smith states that while the goal of the legislation is admirable, the NPS is reluctant to take on the administration of the funding given its commitment to existing protected parks and sites. He continues

“Nor can we support legislative earmarks that would effectively take limited and critically needed historic preservation operations funding away and divert it to these specific purposes under the National Historic Preservation Act. The Department strongly supports the principle that States, tribes, and local governments – not the Federal government – are best suited to determine the highest priorities for awarding grants in each jurisdiction under the Historic Preservation Fund.”¹⁴⁴

Smith argues that the missions should look to secure funding through other methods, even suggesting the SAT program. However, what if the state and/or local government does not allow the type of funding proposed at the federal level, as is the example in California regarding funding for active religious places?

¹⁴⁴ Smith, P. Daniel. “Statement of P. Daniel Smith, Special Assistant, National Park Service, Department of the Interior, Before the Subcommittee on Energy and Natural Resources, Concerning H.R. 1446 and S. 1306 to Support the Efforts of the California Missions Foundation to Restore and Repair the Colonial and Mission-Era Missions in the State of California And to Preserve the Artworks and Artifacts of these Missions, And for Other Purposes.” 9 March 2004. Accessed 13 March 2009. Available at <http://www.doi.gov/oc/2004/HR1466andS1306.htm>

Stacey L. Mahaney defended the Act in the *American University Law Review*, titled *The California Missions Preservation Act: Safeguarding Our History or Subsidizing Religions?* After studying the background of the case and the arguments of Americans United for the Separation of Church and State, Mahaney concludes that the Missions Act has neither the purpose nor the effect of advancing religion.¹⁴⁵ The purpose of the Act is secular; the government recognized that historic preservation is a secular aim. The importance of the missions to both Californian and American history is emphasized by both Senators Boxer and Feinstein and Congressman Sam Farr (D-CA). By going indirectly to the missions through the non-profit foundation, the government is not excessively entangling itself with the Catholic Church. Further, as the NPS administers the SAT program, they have direct experience ensuring that funds are used for secular purposes.

For those that cite *Tilton* and *Nyquist* in their opposition of the Act, it has already been discussed how those cases are not in keeping with the court's more recent policies of neutrality. Mahaney further argues that unlike *Tilton*, the Act does not provide property to the church. She asserts,

“The Missions Act does not provide value to the Catholic Church. Rather, in enhancing the historic character and features of the missions, the funded activities provide value to the tourists and school children who visit the missions for historical and educational purposes.”¹⁴⁶

¹⁴⁵ Mahaney, 1523.

¹⁴⁶ *Ibid*, 1541.

In *Nyquist*, the court struck down basic maintenance activities, but the missions do not require basic maintenance, they need targeted preservation interventions by trained professionals to ensure the structural integrity of these buildings that are major contributors to the story of settlement in the American West. The intent of the Act is not to improve or expand upon religious services; work is reserved only for historically and architecturally significant features that are of public benefit.¹⁴⁷ As discussed in the legal history, the courts require that aid be allocated on neutral criteria. In the case of the missions, there is no value judgment based on religion, only on a mission's historic and architectural significance. There is no incentive for properties to become religiously affiliated to receive the aid. There is also no excessive entanglement, as funds are dispersed to the secular California Missions foundation and are administered by NPS.

Mahaney writes that denying historic preservation funding to the missions because of their religious association is adversarial towards religion. If funding is not allowed, then these religious properties have incentive to abandon worship services and secularize. Historic sites suffer from physical degradation because of tourism. Mahaney writes,

“This is especially so, given the high volume of visitation that the California missions receive. Because the federal government extends funding and technical services to secular institutions that provide public access to

¹⁴⁷ Ibid, 1542.

historic properties, it should not deny funding and services to historic properties associated with religious institutions.”¹⁴⁸

Mahaney concludes by recommending the California Missions Preservation Act adopt the standards of the SAT program, which uses measures of national significance and a determination of urgent preservation need, to make grant awards. Additional SAT safeguards to prevent a diversion of funds to religious purposes and ensure public benefit would also be put in place.¹⁴⁹

Most of these missions are in dire need of funding for restoration and stabilization. Mission San Miguel Arcángel especially needs funding. The church’s interior has been closed to the public since 2003, when an earthquake severely damaged many of the site’s buildings (Figure 29). Estimated repairs total \$15 million. Placed on the 2006 National Trust for Historic Preservation’s 11 Most Endangered Places, San Miguel is still trying to secure the necessary funds.¹⁵⁰ Founded in 1797 by Spanish Franciscan Friars, San Miguel was a successful farm, ranch, and site of religious conversion for Native Americans. The goal of the mission was to create loyal, Catholic subjects of the Spanish crown. When Mexico became independent of Spain in 1821, San Miguel became secularized and its decline was swift. Many of the sites buildings’ were raised by corrupt administrators, leaving only the religious features. Sold back to the Catholic Church in 1859, major repairs were

¹⁴⁸ Ibid, 1550.

¹⁴⁹ Ibid, 1551.

¹⁵⁰ Hall, Christopher. “Mission Impossible?” *Preservation*. January/February 2007. Accessed 2 July 2008. Available at <http://www.preservationnation.org/magazine/2007/january-february/mission-impossible.html>. Para 6.

not done until the Franciscans regained control in 1928, including the rebuilding of a retreat center, stabilizing roof beams with steel girders, and the replacement of deteriorated adobe. The Franciscans landscaped the interior quadrangle and added a fountain and bell tower.¹⁵¹

Over time, the evidence of these restoration efforts started to fade, but the campus was still intact and stable. It was this campus that crumbled in the December 2003 earthquake, whose epicenter was only 35 miles from San Miguel. Most of the damage occurred at the church and convent. Cracks in the stucco and underlying adobe are visible on the facade. There are sloping walls, most noticeably in the sacristy, where emergency wood bracing has been installed.¹⁵² San Miguel is currently owned by the Roman Catholic Diocese of Monterey and the Franciscan Friars of California, who have partnered with the California Missions Foundation to find funding for the expensive restoration.

Knox Mellon, Executive Director of the California Missions Foundation, discussed his role in the struggle to secure restoration funding for San Miguel.¹⁵³ He further recounts the events associated with the 2003 California Missions Preservation Act and subsequent Americans United for the Separation for Church and State lawsuit. When the group filed this lawsuit against the federal government, the

¹⁵¹ Ibid. Para 13.

¹⁵² Ibid. Para 15.

¹⁵³ Mellon, Knox. Executive Director, California Missions Foundation. Personal Interview. 19 March 2009.

foundation wanted to take action and believed they would win. A federal judge had been assigned to the case, but was later taken off for reasons of “higher importance.” A year went by and nothing happened. Americans United, citing the lack of appropriated funds, declared a victory and dropped the suit. Senator Boxer told Mellon that the timing was not right to try and fight the lawsuit, as the legislature was facing more urgent issues.

Instead Senator Boxer and Senator Dianne Feinstein went to Save America’s Treasures for earmark appropriations for several of the missions. San Miguel received \$350,000. San Miguel did not submit an application to SAT to compete in the grants process. When asked why the foundation did not apply for a SAT grant on behalf of San Miguel, Mellon replied that congressional earmarks were the easiest and quickest way to secure the desperately needed funding. He felt that filling out an application would only create unnecessary work.

There are only two full-time employees at the foundation. A significant percentage of fundraising efforts has been slowed due to the economic climate; Mellon describes this current holding pattern as a “wait and see mentality.” Even without the economic downturn, Mellon finds it “awkward” leading a secular non-profit whose mission is based on supporting religiously affiliated historic sites. Matching grants come more from private foundations than from individuals, who can be weary of contributing to a cause with religious associations. After the 2003 earthquake, Mellon approached FEMA to support stabilization at San Miguel, but was told that religious properties were ineligible. He categorizes FEMA as difficult to work with and full of contradictions. Upon closer research, this statement can be qualified,

as FEMA previously provided funding to Mission San Gabriel and Mission San Fernando, both active Catholic churches.¹⁵⁴ Why did FEMA support reconstruction of the Seattle Hebrew Academy, a religious school, after an earthquake and not San Miguel? Would not excessive entanglement and religious indoctrination concerns be more justified at a school where religious education takes place, rather than a historic site? Paul Edmondson agrees that San Miguel should have been eligible for FEMA funding.¹⁵⁵

Interesting, San Miguel had earthquake insurance, uncommon amongst the missions for expense reasons, for \$12 million. However, when the underwriters visited the site, they determined that the age of the structure, and not the earthquake, was the reason for the damage. They refused to pay for restoration. The dispute went to court, where the judge told Mellon he was sympathetic to the mission, but the underwriters would win the case. San Miguel settled the suit and received \$6 million. However, repairs totaled between \$14 and \$15 million. To date, the sanctuary of San Miguel is still closed to tourists.

John Fowler is the project manager of restoration at San Miguel.¹⁵⁶ Architects, engineers, and other preservation professionals developed a design scheme that includes seven planned phases of design. Two of the seven phases are now complete and open to the public; the museum and parish offices. Conservationists

¹⁵⁴ See Mahaney, footnote 39 on pg. 1529

¹⁵⁵ Edmondson, Paul. Email to the author.

¹⁵⁶ Fowler, John. Project Manager, Restoration of San Miguel Arcángel Mission. Personal Interview. 23 March 2009.

are working on phase 7, the sanctuary, and the design of phase 3, the retreat center. Fowler explains how important the money generated from mission tourism is to the rural community that surrounds San Miguel. There is a local economy that develops around this tourism, including restaurants, a gas station, the gradual redevelopment of a main street, and even a proposed night club.

Fowler projects it will take \$15 million to reopen the entire complex, of which \$10 has been received or pledged. After the earthquake, it took 2-3 years just to reopen the museum and parish offices. If the sanctuary is reopened to the public this year, it will have been six years since the earthquake. This is unacceptable and not in keeping with principles of neutrality. These places are very important to American history and should be eligible to receive the same types of funding available to other historic sites.

NON-PROFIT CONSIDERATIONS

Government support of historic religious properties is important not only for the funding of preservation initiatives, but because it sends a message to private foundations and individuals that these places are irreplaceable parts of American history. These SAT grants are used to attract other donors, due to both the matching requirements and the notoriety of the program at a national scale. Cultivating and sustaining new donor relationships is imperative for the financial health of these religious properties and their secular non-profits.

Never has this need for donor diversification been more apparent than in today's current economic climate. Touro Synagogue, located in Newport Rhode

Island, is the nation's oldest synagogue (Figure 30). It is also a National Historic Site and a past recipient of 2003 SAT grant for \$375,000. At the beginning of March, the Touro Synagogue Foundation announced it would be suspending all public tours and laid off its paid staff for financial reasons. Board president Keith Stokes states,

“We’re making the necessary adjustments in lieu of the fact that the nonprofit philanthropic market has shrunk. There is less money out there ... so we have to reduce our overhead.”¹⁵⁷

The Foundation assures the cancellation of public tours is temporary and that they plan to go ahead with the opening of a new 3,100 square foot museum called the Loeb Center for Religious Freedom, these revelations call into question the relationship between the National Park Service and nonprofit grant recipients. With the nation in a recession, non-profits are failing. If a non-profit fails, and if SAT money has not been spent, does it go to the congregation? Similarly, even if the SAT money has been spent, is the public benefit clause still in effect? If funds are transferred directly to the religious entity, is this violation of church and state? Even if it is not, it would seem to increase the opportunity for excessive entanglement claims.

Hampton Tucker, who was involved in the SAT grant for the Old North Foundation, is now the Chief of the Historic Preservation Grants Division at NPS.¹⁵⁸

¹⁵⁷ Salit, Richard. “Touro Synagogue Foundation Sheds Staff.” *The Providence Journal*. 6 March 2009. Accessed 22 March 2009. Available at http://www.projo.com/news/content/TOURO_SYNAGOGUE_WOES_03-06-09_E1DIBQ4_v9.378978c.html

Tucker explains that there is a two year obligation period following every SAT grant. If money is given and a non-profit dissolves, the money can go to another interested party, even if it is religious, a result of the 2003 OLC opinion. If the non-profit dissolves after this two year period of obligation, then the money reverts back to the U.S. Treasury. Public access is a requirement of the site for a minimum of twelve days a year. In the case of Touro Synagogue, it must be advertised that the public tours are suspended, which they have done.

While legally these funds could go directly to the religious entity, there should be further safeguards put into place to ensure the use of grant monies is completely secular. Many of the publications that argue in favor of supporting federally funded historic preservation grants for religious properties do so under the assumption that a secular non-profit will be the sole beneficiary and administrator of the grant. As seen in the above case studies, the non-profits attached to these active religious places focus only on the history and architectural significance of their sites. They are historic sites. This secularization brings with it professionalization. Staff members are paid employees and many come from backgrounds in finance, law, education, history, and non-profit administration. At Christ Church, fundraising done by the non-profit is more successful than by volunteers at the church. Rev. Ayers advocated for a division of responsibilities at Old North Church because both the religious and public mission could not be fulfilled by the same person. The Museum at Eldridge

¹⁵⁸ Tucker, Hampton. Chief of Historic Preservation Grants Division, National Park Service. Personal Interview. 13 March 2009.

Street wanted to be recognized as an official museum by New York state because it added legitimacy to their efforts that opened more channels for fundraising.

There are other benefits for religious sites that have secular non-profits. SAT grants require a 50 year easement to be placed on the property of every grant recipient. These grants are administered by respective state historic preservation offices (SHPO). In Pennsylvania, the SHPO is the Pennsylvania Historical and Museum Commission (PHMC). Scott Doyle is the Program Director for PHMC grant programs. Doyle confirms that the creation of secular non-profit adds a level of professionalization and a focused mission secures more funding.¹⁵⁹ The separate entity also segments stakeholders, making the management of their concerns, ideas, and opinions more organized. Those interested in the history or architecture of a site do not have to volunteer with or donate to the active congregation, and vice-versa. For donations to secular, historic organizations, there are tax benefits that are not extended to religious donations.

In Pennsylvania, being a non-profit makes these sites eligible to apply for the PHMC's general operating support, a type of funding that is notoriously difficult to secure. The PHMC's state Keystone grants have been extended to historic religious properties since the program's inception in 1994. PHMC also worked to obtain funding for Partners for Sacred Places regional grant program from Pennsylvania's Department of Community and Economic Development (DCEC), one of the state's

¹⁵⁹ Doyle, Scott. Program Director, Pennsylvania Historical and Museum Commission. Personal Interview. 18 March 2009.

major grantors. When the program began in 2005, PHMC supported the initiative to preserve older, religious properties in the Greater Philadelphia area. The DCEC had a policy against funding religious affiliated programming, but PHMC convinced them to change their funding guidelines, as the grants are meant to support historic sites and community development.

Many of the Keystone grants are matched by SAT (and vice versa). Doyle explains that it is not more or less difficult to manage easements at religious properties. The ease of the process depends on the professionalism of the organization awarded the grant. There are times when religious organizations do not want any oversight, such as when the Archdiocese of Philadelphia elected not to accept a grant because they did not want an easement. The PHMC is very open about how SAT grantees are required to have a 50 year easement. While these easements are for both the interior and exterior, Doyle explains that no one wants to make changes to the interior, specifically the sanctuary. He states, “The easements are not meant to be punitive. We (the PHMC) are professionals; we can contribute to the authenticity and careful maintenance of the building.”¹⁶⁰ The government funds a building to preserve it for its secular public benefit, not to become involved in decisions about its religious use. The two are completely separate.

One of the arguments opponents use against the federal government’s support of historic preservation grants to religious properties is that the

¹⁶⁰ Doyle. Personal Interview.

congregations should be able to either pay for restoration themselves or find private funding. Rob Boston of Americans United for Separation of Church and State believes that “from a professional fundraisers’ standpoint, \$317,000 is pocket change. Even a mediocre fundraiser could have drummed up that sum in an afternoon without breaking a sweat.”¹⁶¹ This statement simply is not true. Rev. Ayers appealed the rescission of Old North’s first SAT grant not because he wanted to become involved in a policy battle, but because the church’s windows needed urgent conservation.¹⁶² As evidenced by the above case studies, the historic religious properties that do have secular non-profits have only begun to professionalize in the last 10 years. Managing fundraising initiatives is difficult and time-consuming; it should not be reserved for volunteers. Even an organization as successful as the Christ Church Preservation Trust, which works in support of an iconic religious building nationally recognized for its cultural significance, is stalled in its capital campaign. These places need diverse fundraising strategies, which should include government grants.

Despite the fact that these non-profits need the financial support of the government, if this type of funding does not continue, the government sends a message that these historic religious properties do not carry the same historical significance as secular places. If the Mount Vernon Ladies Association failed, would the government let Mount Vernon fall into disrepair? Why should Old North Church,

¹⁶¹ Boston, Rob. “Refurbish Your Church – with Tax Dollars.” *The Humanist*. July-August 2006. 1.

¹⁶² Rev. Ayers. Personal Interview.

the Museum at Eldridge Street, or the California Missions be any different? Why should historic value automatically be relegated beneath religious value, especially when there are management strategies in place to ensure their separation when necessary? The events and associations of these places built America. Both Touro Synagogue and Christ Church are planning educational exhibits about religious freedom. What idea is more enduring and inherently American than religious freedom? There is no argument that telling the story and importance of religious freedom in this country is not a clear public benefit.

On February 5, 2009, President Barack Obama signed an executive order to expand the Office of Faith Based Initiatives, now called the White House Office of Faith-Based and Neighborhood Partnerships. The White House Press Release reads,

“The White House Office for Faith-Based and Neighborhood Partnerships will be a resource for nonprofits and community organizations, both secular and faith based, looking for ways to make a bigger impact in their communities, learn their obligations under the law, cut through red tape, and make the most of what the federal government has to offer.”¹⁶³

Obama’s administration recognizes that religious entities have public value. In the case of historic religious places, we have seen that this value can be educational, historical, cultural, artistic, and community-building. At the intersection of the secular and faith-based is immeasurable opportunity for what President

¹⁶³ Office of the Secretary. “Obama Announces White House Office of Faith-based and Neighborhood Partnerships.” White House Press Release. 5 February 2009. Accessed 2 March 2009. Available at http://www.whitehouse.gov/the_press_office/ObamaAnnouncesWhiteHouseOfficeofFaith-basedandNeighborhoodPartnerships/. Para 3.

Obama calls a “force for good.”¹⁶⁴ Federal support for the preservation of these places sends a message that the government recognizes this value and is committed to its sustainability.

During the course of my interviews, I asked those connected to these historic religious places why they think federal funding for preservation is important.

John Fowler believes that purpose of the California Missions goes beyond their parish; they are part of Californian and American story.¹⁶⁵ In today’s day and age, he believes that site managers have the ability to control funds and ensure that they are used only for their designated purposes. The Missions are very expensive sites to maintain, and the government should be involved in that maintenance. It would be a real loss to school children if they could not see their history. You never know the types of impressions historic places make on people and the positive actions they can encourage in the future. In terms of economics, if a mission goes, so does the town. Fowler asserts that a historic site that happens to have a religious affiliation should not have to give up that association to receive federal funding.

Lynne Spencer, a principal architect at Menders, Torrey, and Spencer, Inc., worked on the original master plan of Old North Church and encouraged Rev. Ayers to pursue the SAT grant.¹⁶⁶ She states that religious properties can be important

¹⁶⁴ Ibid. Para 2.

¹⁶⁵ Fowler. Personal Interview.

¹⁶⁶ Spencer, Lynne. Principal, Menders, Torrey, and Spencer, Inc. Personal Interview. 24 February 2009.

historic places. In New England, the quintessential image is the town green with a white church and a soaring spire. The New England meetinghouse was a place for worship, but also for civic and political life in the form of the town meeting, a pivotal idea in America's democratic history. She says that the separation between church and state has everything to do with resisting a single type of worship, the prescribed state religion. Buildings need to be preserved. One source of this funding is the congregation, but many parishes do not have the funding. To survive, churches have become very creative in their use of space, including renting to community groups, developing day care programs, and even housing office space. This type of attitude should be fostered, not discouraged.

When we lose historic religious buildings, we lose part of the fabric of urban or town life. Historic buildings are reference points in their communities, both geographically and in creating a cultural identity. Religious places can be a civic locus that can both center and orient you.

Rev. Ayers talks about his own experiences at Old North Church. Government funding is for the shell of the building, not the sanctuary of the church. The government is not going to tell him where to put the altar, and he has no intention of changing the historical architecture. He is committed to preserving the significance of the building just as much as the government. There is no conflict.¹⁶⁷

¹⁶⁷ Rev. Ayers. Personal Interview.

People are generally intrigued that there is an active community at Old North. It is part of the interpretive experience. The author visited the church on Ash Wednesday; tourists quietly waited outside, enjoying the exterior architecture and thinking of Robert Newman bounding down the center aisle after hanging the lamps. During peak tourist seasons, if there is a funeral, Rev. Ayers notifies tour groups, who restructure their tours. In the fall, there might be 4,000 visitors on a Sunday, and tours are scheduled between religious services.

Management at these religious historic sites is based on communication and a balance of stewardship. Rev. Ayers explains that the church and foundation are partners. They work closely together and there is a healthy relationship. There are sophisticated memorandums that define the financial and decision making process between the two entities. The Diocese owns the building, and if there is a disagreement about site management, there is arbitration with the Bishop. The non-profit has a budget completely separate from the congregation, and the financial relationships are reviewed frequently. When Rev. Ayers first arrived at Old North Church, the congregation was an afterthought and their stewardship reflected that relegated position. They said to let tourists pay for everything. Now, the congregation is more committed and interested in the health of their building.

In historic preservation, we believe that a building or place is never just one thing. This can be true at one point in time or throughout a building's life. A historic religious property is a place of worship, but it is also a center of community and a

record of history. As Rev. Ayers said, “Old North Church is not just about Christian mythology, but American mythology.”¹⁶⁸

These historically significant places are not only museums with a static collection; they are significant sites of American history. It cannot be denied that religious places have been a major part of the American story. Most people do not visit Old North Church to attend religious service, but to see for themselves the inspiration for Longfellow’s legendary Paul Revere. Religious places are part of our urban landscape. They individualize our cities, but also display a thread of historical and architectural continuity. Who has not walked by a church or synagogue on a public square (Figure 30)? Old North Church, Eldridge Street Synagogue, and Christ Church each have historic, aesthetic, and social value that creates an undeniable public benefit. Based on neutral criteria, these historic religious properties should continue to be eligible for federal funding as an instrument in their future preservation.

¹⁶⁸ Rev. Ayers. Personal Interview.

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FIGURES



Figure 1. Old North Church located in the North End of Boston, along the Freedom Trail. Courtesy of The Freedom Trail Foundation Website.
<http://www.thefreedomtrail.org/maps/maps.html>. Accessed 7 April 2009.

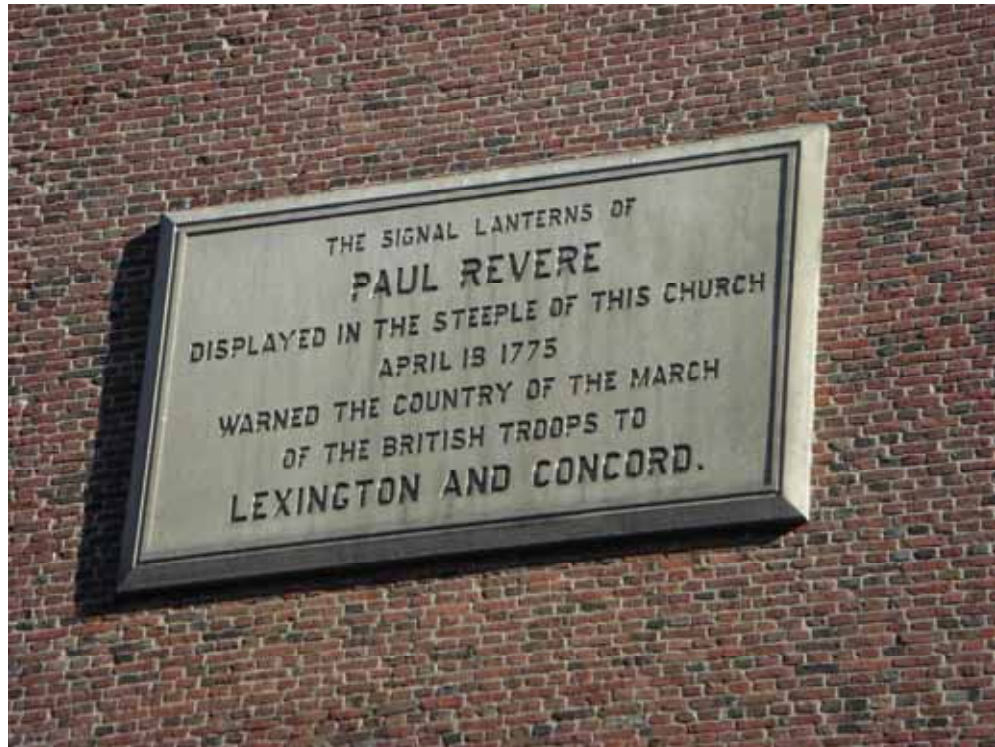


Figure 2. Sign interpretation of Paul Revere's lanterns on the façade of Old North Church (Image author's own)



Figure 3. Old North Church in the North End neighborhood of Boston (Image author's own)



Figure 4. Interior of Old North Church (Image author's own)

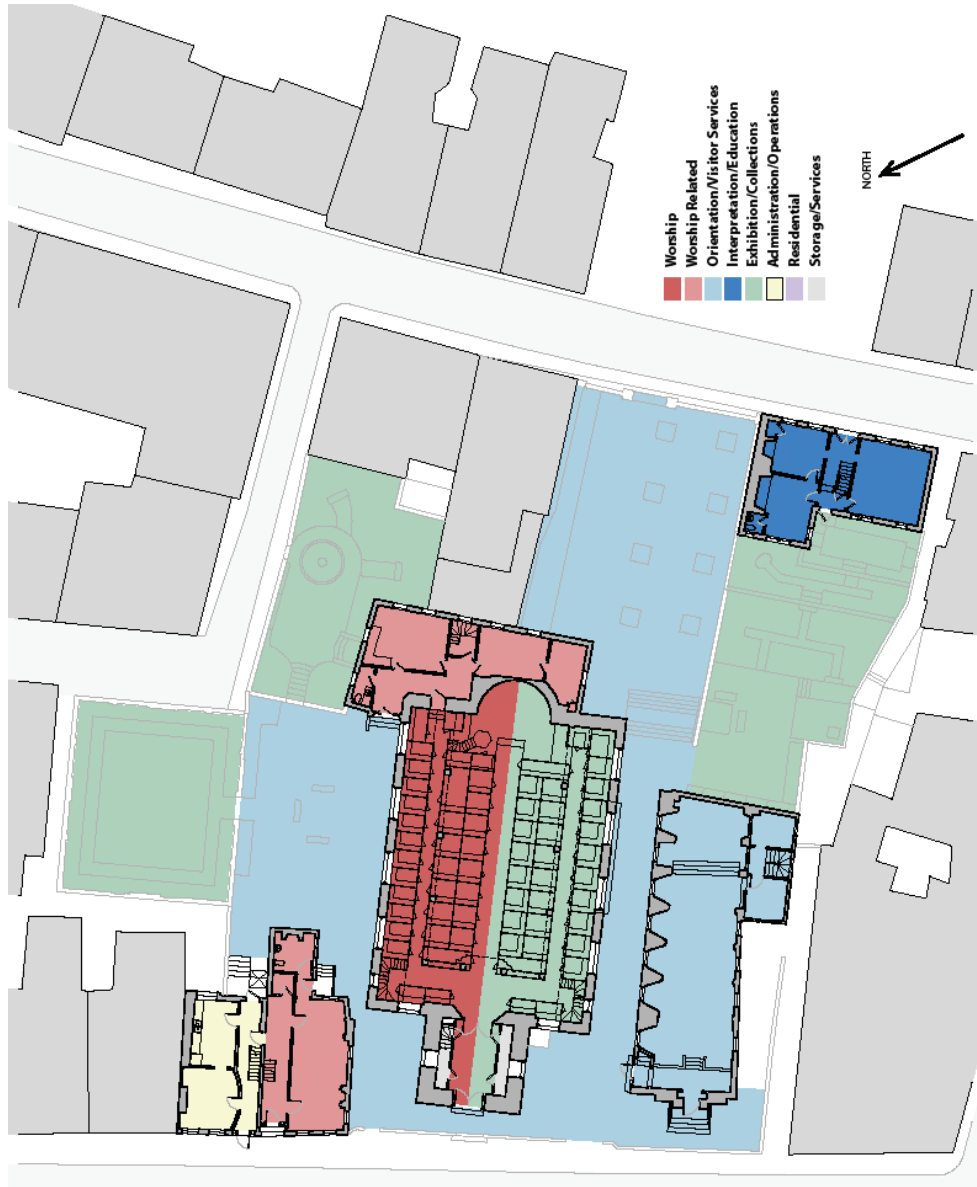


Figure 5. Master Plan of Old North Church, Floor 1. Ann Beha Architects.
 (Courtesy of Old North Church website.
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Figure 6. Old North Campus: Church at Red Point, Foundation Offices at Green Point, Ebenezer Clough House at Blue Point (Google Earth 2009)



Figure 7. View of the bells at Old North Church (Image author's own)



Figure 8. Eldridge Street Synagogue (Red Point) in the Lower East Side, New York City (Google Earth 2009)



Figure 9. Façade of Eldridge Street Synagogue, including the rose stained glass window (Courtesy of Museum at Eldridge Street Synagogue website <<http://www.eldridgestreet.org/index.html>> Accessed 10 April 2009)



Figure 10. Eldridge Street Synagogue, seen in the context of New York City's Chinatown (Image author's own)

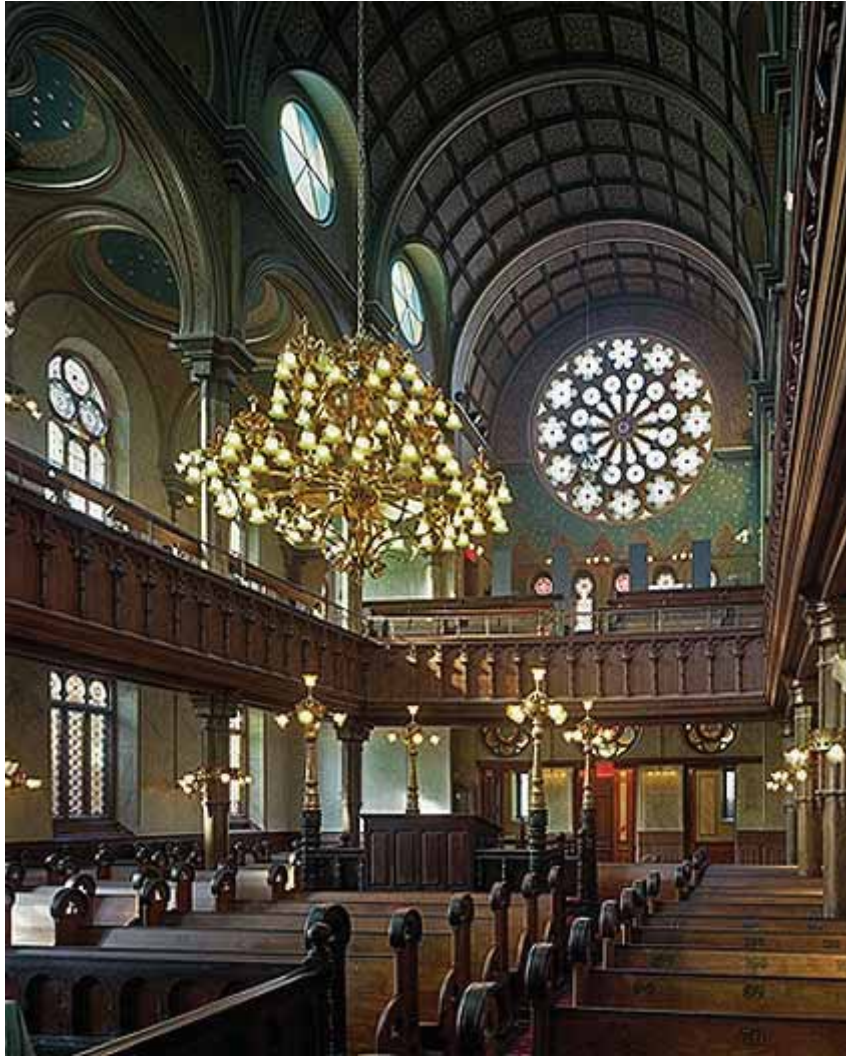


Figure 11. Interior of Eldridge Street Synagogue. (Courtesy of Museum at Eldridge Street Synagogue website <<http://www.eldridgestreet.org/index.html>> Accessed 10 April 2009)

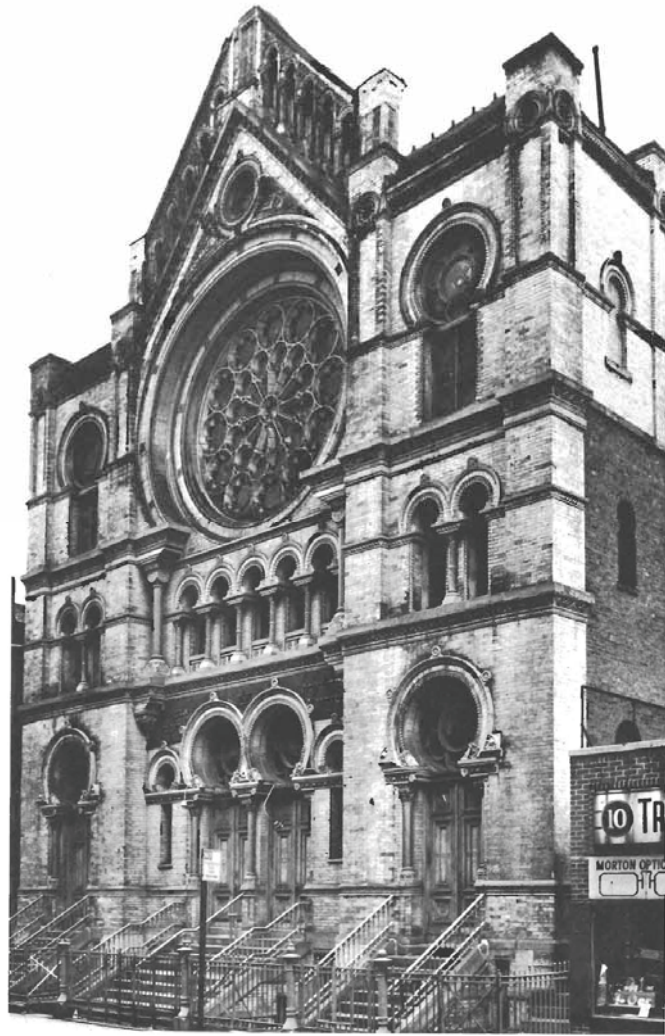


Figure 12. Eldridge Street Synagogue before restoration, as seen by Professor Gerard Wolfe (Courtesy of Gerard Wolfe's *The Synagogues of the Lower East Side*, pg. 42)

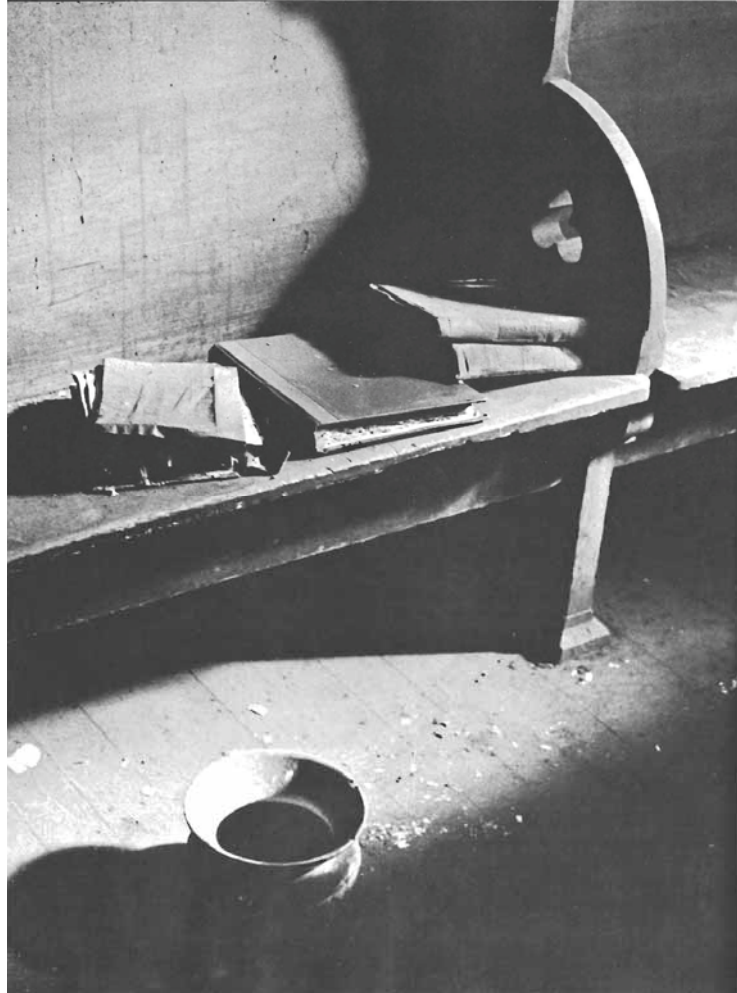


Figure 13. Pew with old prayer books (Courtesy of Gerard Wolfe's *The Synagogues of the Lower East Side*, pg. 48)



Figure 14. Map exercise of Limud Tables at Eldridge Street Synagogue (Image author's own).

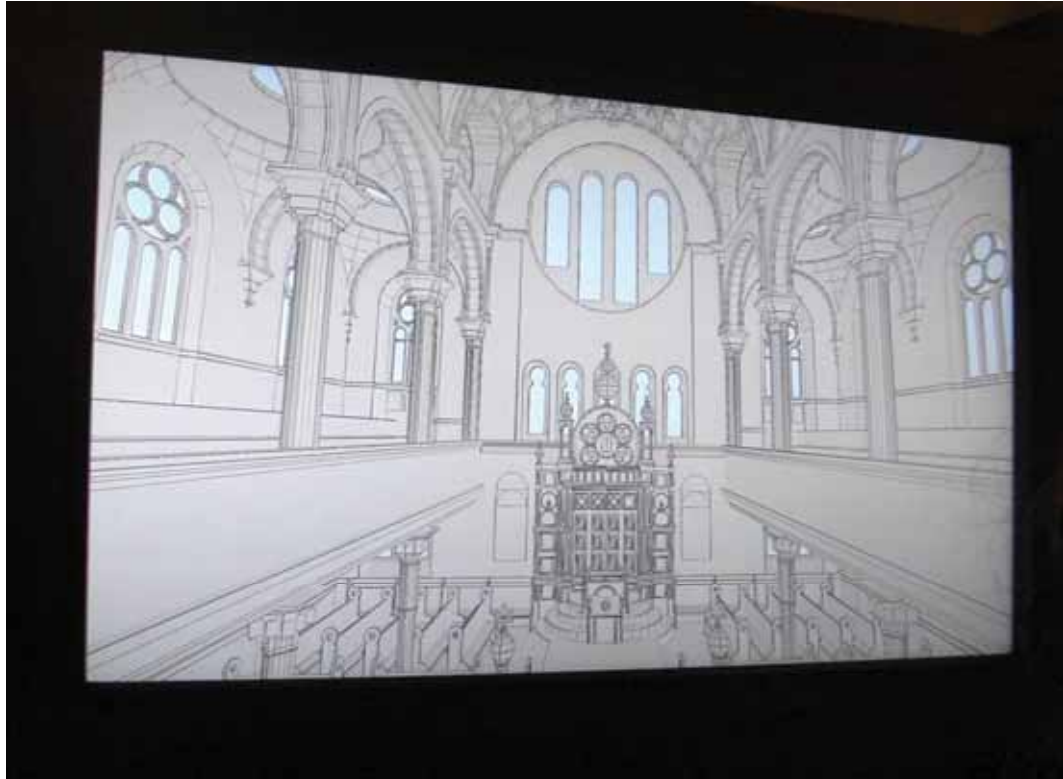


Figure 15. Drawing of the interior of Eldridge Street Synagogue on Limud Table
(Image author's own)



Figure 16. Interpretation of restoration in the Women's Gallery of Eldridge Street Synagogue. (Image author's own)



Figure 17. Egg Creams and Egg Rolls 2006 Event, Eldridge Street Synagogue
(Courtesy of the Museum at Eldridge Street)

Come in...

Enter the historic hallways of Ellis Island

Opened on January 1, 1892, Ellis Island became the nation's premier federal immigration station, processing



over 12 million immigrants before it closed in 1954. The National Park Service (NPS) restored and opened the Main Building in 1990 as an Immigration Museum. The Ferry Building, restored and opened as a joint effort by the NPS and its partner, Save Ellis Island, served as the departure point for immigrants to enter the United States.

Learn more at www.nps.gov/ellis and www.saveellisland.org or 212-363-3206.



Move in...

Experience life in the Tenement Museum

The Tenement Museum tells the stories of immigrant families who lived at 97 Orchard Street, a historic tenement building located in the heart of Manhattan's Lower East Side, which has been an immigrant portal for 200 years. From 1863 to 1935, 97 Orchard Street was home to an estimated 7,000 people from over 20 nations. Inside the Museum, visitors view restored apartments of past residents from different time periods.



Learn more at www.tenement.org or 212-982-8420.



Join in...

Embrace community at the Museum at Eldridge Street

The Museum at Eldridge Street presents the culture, history and traditions of the great wave of Jewish immigrants to the Lower East Side, drawing parallels with the diverse cultural communities that have settled in America. The Museum is located within the Eldridge Street Synagogue, which opened its doors in 1887. Nearly lost over time, this National Historic Landmark has been faithfully restored to its original evocative grandeur.



Learn more at www.eldridgestreet.org or 212-219-0302



Figure 18. Follow in their Footsteps brochure (Courtesy of Eldridge Street Museum)

MUSEUM AT ELDRIDGE STREET
School Programs

The 1887 Eldridge Street Synagogue is a National Historic Landmark. Open the building and discover its story...

The Eldridge Street Synagogue provides an unparalleled setting for students of all backgrounds to learn about immigration, architecture and historic preservation and Jewish life. The Museum's location, where Chinatown meets the old Jewish Lower East Side, encourages students to explore how New York City's diverse new-comers have creatively adapted their traditions and culture in America.

Hours:
 Sunday–Thursday: 10 am to 4 pm; Each program lasts 75 minutes

Admission: \$6 per child (ages 5–18)
 Subsidies are available upon request for a limited number of classes.

Booking and information: Email mbader@eldridgestreet.org or call 212.219.0302 for more information.

Immigration
 What traditions do immigrants bring to America? How do they learn about their new country and also adapt traditions brought from their home? This exploration of the Eldridge Street Synagogue uses the particular story of its congregation and its immigrant founders to highlight the challenges and opportunities that all immigrants face when bringing traditions to a new place.

Architecture
 What do buildings tell us about a community's values and history? Learn how to uncover a building's story through its design and discover the glorious architecture of our landmark synagogue. Students will examine paint patterns, stained glass windows, and Victorian lighting and will learn and use basic architectural vocabulary to explore the processes of restoration.

Judaism
 What are the core traditions of the Jewish religion? The synagogue is central to the transmission of Judaism. Explore the Eldridge Street Synagogue, learn about ritual objects, and discover Jewish holidays, traditions, and practices. Special programs focusing on the Sabbath, Hanukkah, and Passover explore the richness of these rituals through food, games, and dramatic play.

Lower East Side Walking Tour
 What are the clues a neighborhood holds to its past? Students will explore our gateway neighborhood and learn how to "read" landmarks as they discover the social, cultural and educational history of the area. Sites include: Seward Park, Jermolowky's Bank, the Jewish Daily Forward Building, the Educational Alliance, PS 42, and the Seward Park Library.

All programs comply with the New York State Learning standards

Figure 19. School programs brochure (Courtesy Museum at Eldridge Street)

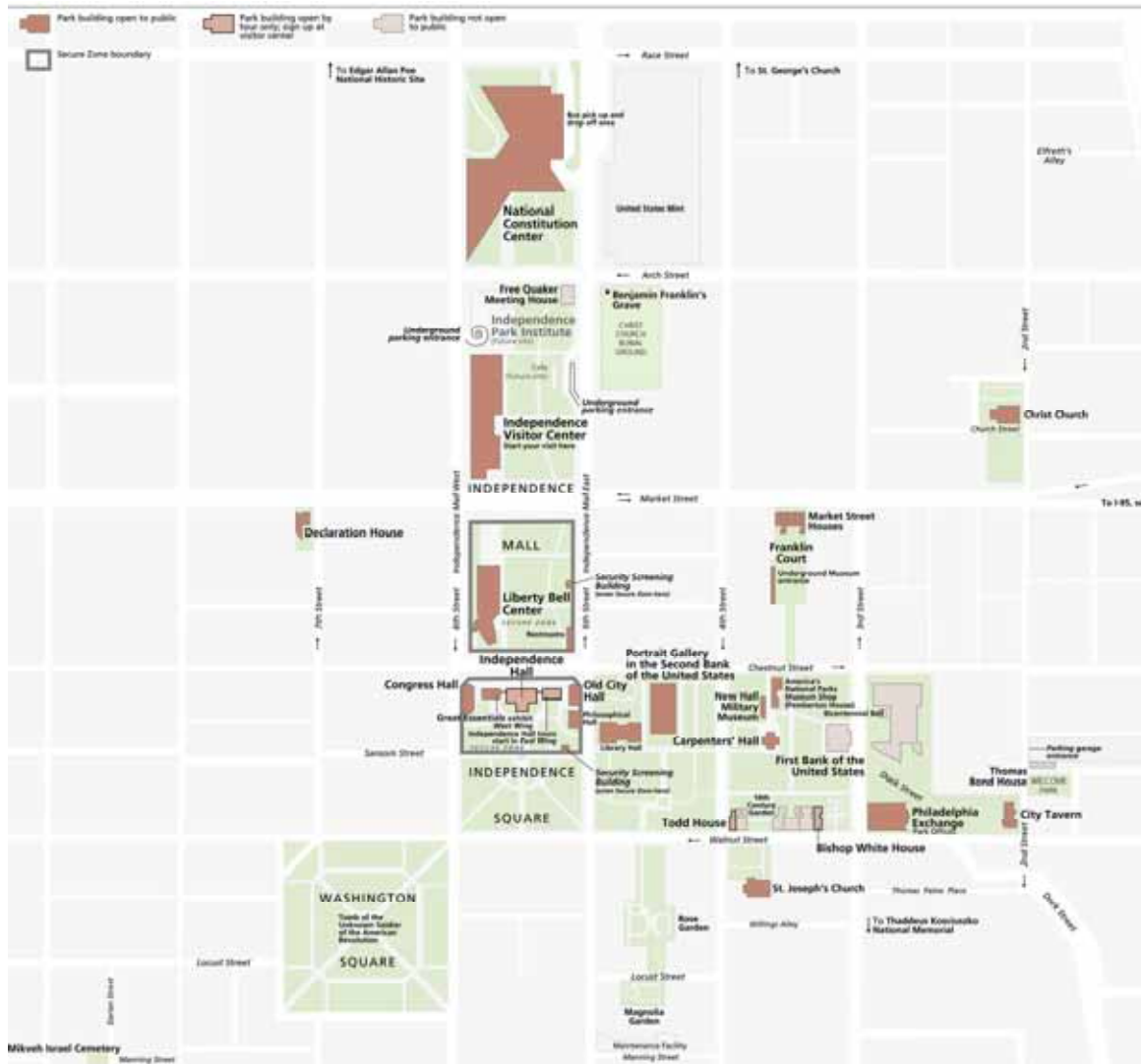


Figure 20. Christ Church and the Christ Church Burial Ground in relation to other sites in the Independence National Historic Park (Courtesy National Park Service website. < www.nps.gov/applications/parks/inde/ppMaps/ACF7F53.pdf> Accessed 15 April 2009)



Figure 21. Exterior of Christ Church, Philadelphia. (Image author's own)



Figure 22. Christ Church (Blue Point) and Neighborhood House (Red Point) (Google Earth 2009)

Christ Church – Current Structure

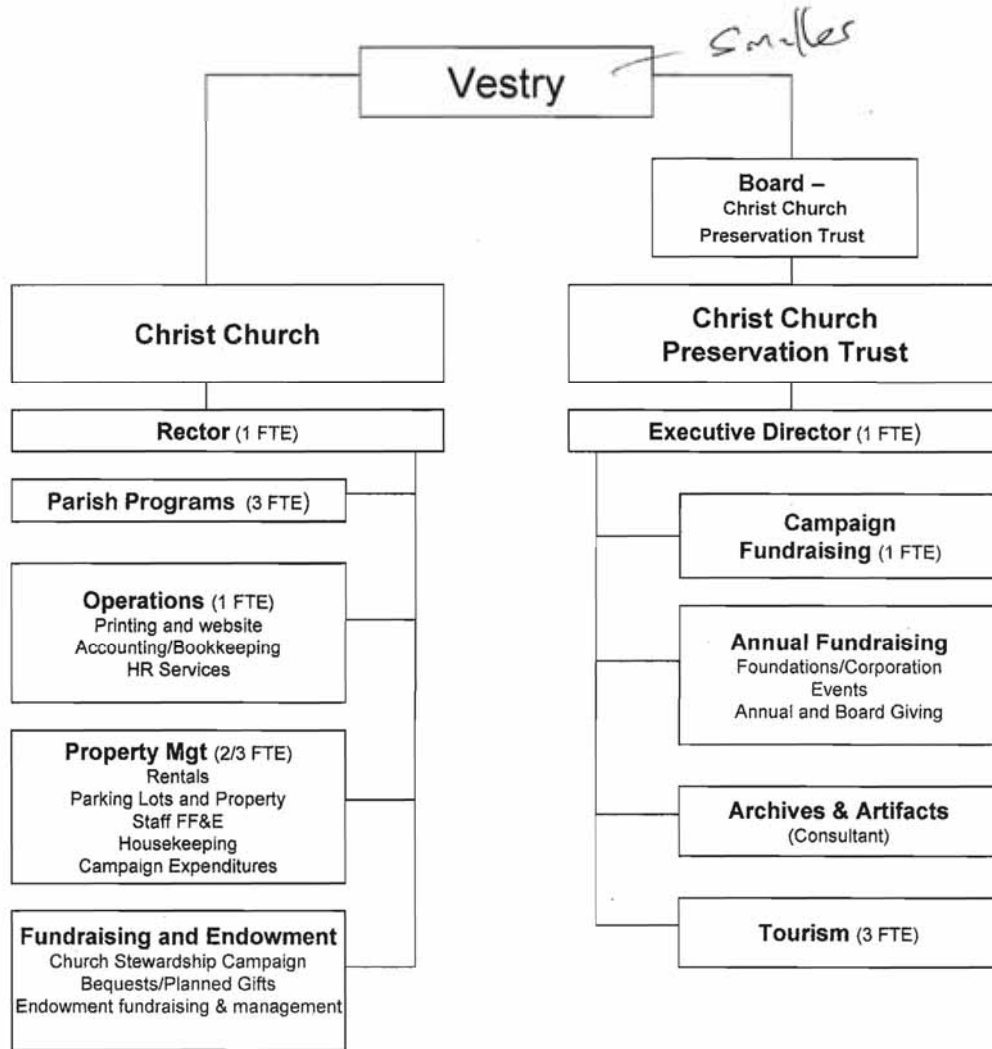


Figure 23. Current Management Structure of Christ Church (Courtesy of the Christ Church Preservation Trust)

Christ Church – Potential Structure

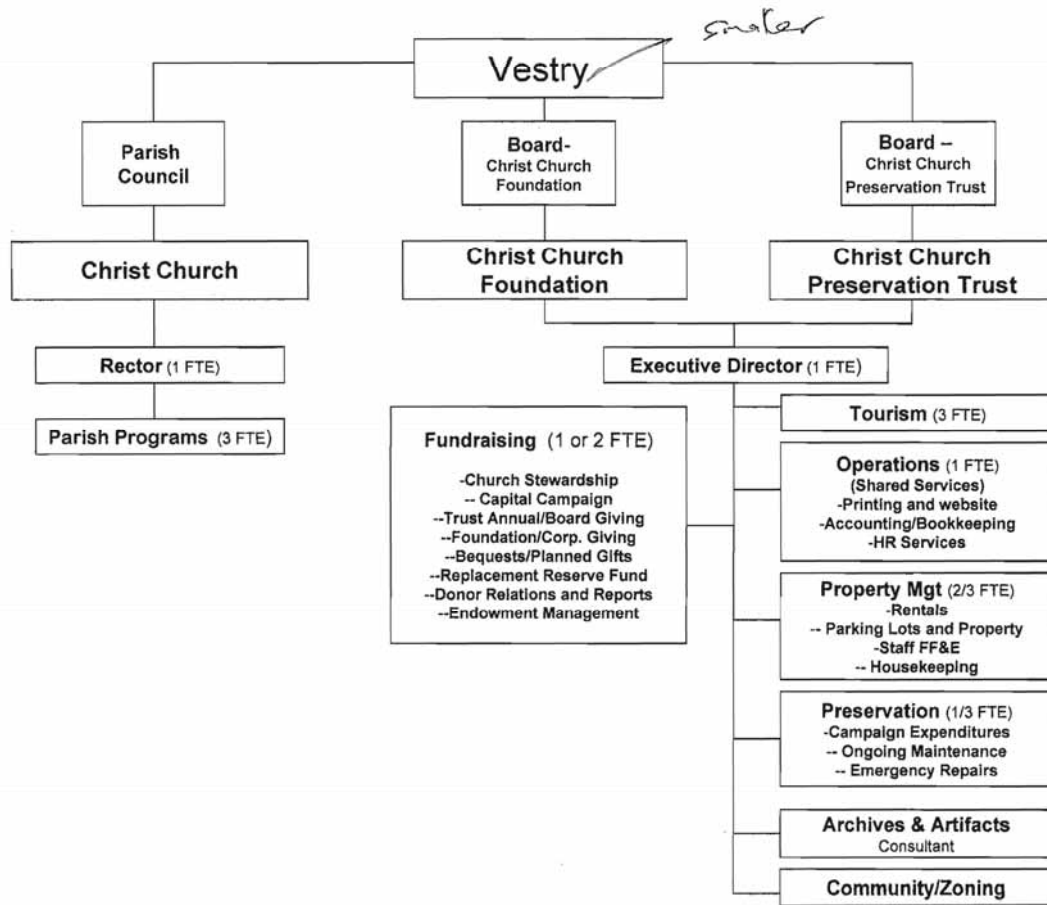


Figure 24. Potential Management Structure for Christ Church (Courtesy Christ Preservation Trust)



Figure 25. Current interior of Christ Church (Image author's own)



Figure 26. Signage outside of Christ Church on the rehabilitation of Neighborhood House (Image author's own)



Figure 27. Christ Church Burial Ground, Philadelphia. (Image author's own)



Figure 28. Tourists taking photos of Benjamin Franklin's grave from outside of the Christ Church Burial Ground (Image author's own)

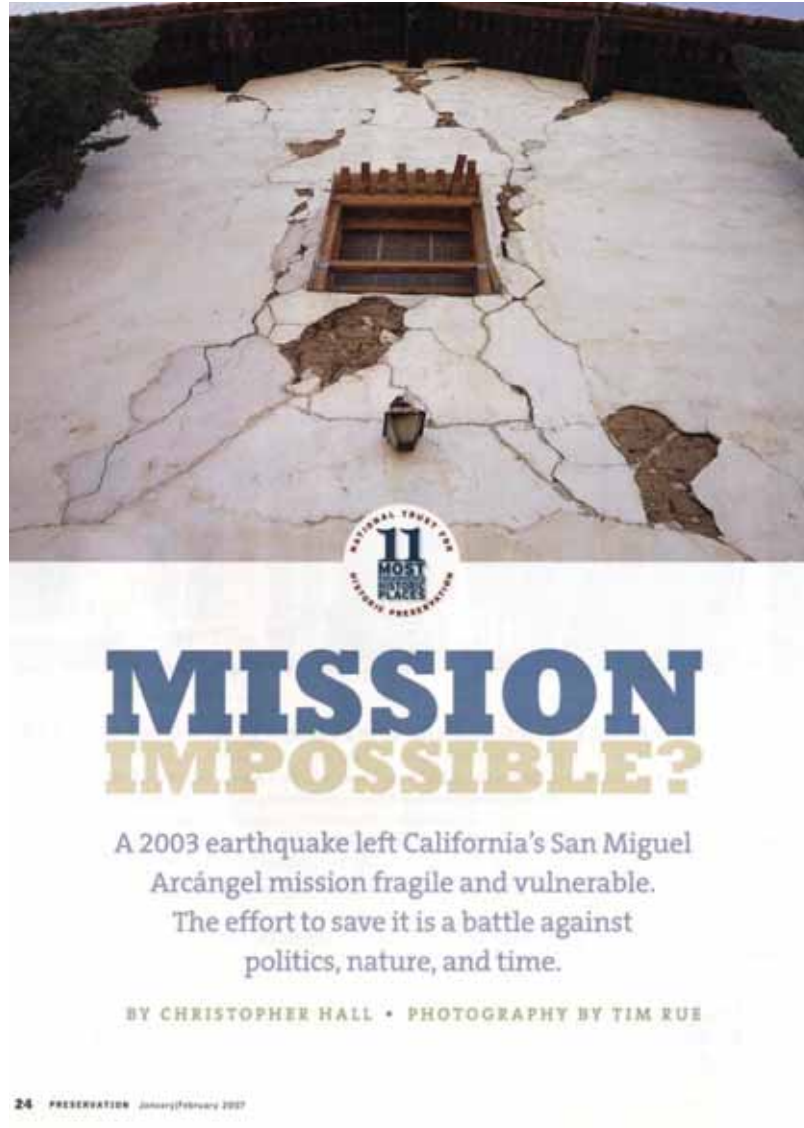


Figure 29. Exterior damage to San Miguel Arcángel mission (Courtesy Tim Rue, *Preservation* January/February pg. 24)



Figure 30. Young visitor at Christ Church (Image author's own)

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